

MONTANA LEGISLATIVE HISTORY

Chapter 361 1995

Bill H 176 S _____

Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) H 1/24 _____ c
2-2

transfer _____ c

to ~~Terolia~~ H 2/15 _____ c

✓ 2/15 _____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) H 3/06 _____ c

✓ 3/06 _____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1/28	REFERRED TO JUDICIARY		
2/28	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 109		
	EFFECTIVE DATE: 10/01/95		

HB 175 INTRODUCED BY HAGENER, ET AL.

PROVIDE THAT THE CHIEF JUSTICE, RATHER THAN THE GOVERNOR, MAY
 ASSIGN A DISTRICT JUDGE TO HOLD COURT IN A DISTRICT OTHER
 THAN THE JUDGE'S OWN DISTRICT
 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/24	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED		
1/26	2ND READING PASSED	94	6
1/27	3RD READING PASSED	88	7
	TRANSMITTED TO SENATE		
1/28	FIRST READING		
1/28	REFERRED TO JUDICIARY		
2/28	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/09	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 110		
	EFFECTIVE DATE: 03/10/95		

HB 176 INTRODUCED BY HAGENER, ET AL.

REQUIRE ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER
 SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES
 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/14	FISCAL NOTE REQUESTED		
1/20	SPONSOR FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/24	HEARING		
2/04	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	TAKEN FROM 2ND READING AND REREFERRED TO TAXATION		
2/15	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	63	37
2/18	3RD READING PASSED	64	34

	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO JUDICIARY		
3/06	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/10	2ND READING CONCURRED	30	13
3/11	3RD READING CONCURRED	28	14
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	76	18
4/03	3RD READING AMENDMENTS CONCURRED	61	38
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 361		
	EFFECTIVE DATE: 07/01/95		

HB 177 INTRODUCED BY KOTTEL, ET AL.

ELIMINATE RIGHT TO A TRIAL DE NOVO IN DISTRICT COURT WHEN A CRIMINAL CASE IS APPEALED FROM A JUSTICE'S COURT OR A CITY COURT

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO JUDICIARY		
1/14	FISCAL NOTE REQUESTED		
1/19	FISCAL NOTE RECEIVED		
1/19	FISCAL NOTE PRINTED		
1/24	REVISED FISCAL NOTE RECEIVED		
1/25	REVISED FISCAL NOTE PRINTED		
1/25	HEARING		
2/01	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	55	44
2/04	3RD READING PASSED	53	44
	TRANSMITTED TO SENATE		
2/06	FIRST READING		
2/06	REFERRED TO JUDICIARY		
3/01	HEARING		
3/03	COMMITTEE REPORT—BILL NOT PASSED		
3/03	ADVERSE COMMITTEE REPORT ADOPTED	34	15

HB 178 INTRODUCED BY EWER

REVISE LAWS RELATING TO BID SECURITY

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

1/13	INTRODUCED		
1/13	FIRST READING		
1/13	REFERRED TO STATE ADMINISTRATION		
1/14	FISCAL NOTE REQUESTED		
1/18	FISCAL NOTE RECEIVED		
1/18	FISCAL NOTE PRINTED		
1/19	HEARING		
1/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/21	2ND READING PASSED	100	0
1/23	3RD READING PASSED	95	1
	TRANSMITTED TO SENATE		
1/24	FIRST READING		
1/24	REFERRED TO STATE ADMINISTRATION		
2/02	HEARING		
2/02	COMMITTEE REPORT—BILL CONCURRED		

HOUSE JUDICIARY

Page 3

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0160	CURTISS, AUBYN	REGULATE FEDERAL EMPLOYEE ARRESTS, SEARCHES, AND SEIZURES	1/12	1/20	POSTPONE ACTION 2/3	PASS AS AMENDED	2/15	VOTE: 13-6	2/16
HB0161	CURTISS, AUBYN	INCREASE PENALTY FOR ONE TYPE OF SEXUAL ABUSE OF CHILDREN	1/12	1/20		PASS AS AMENDED	1/24	VOTE: 18-0	1/25
HB0173	EWER, DAVID	LET DEPT OF JUSTICE GIVE GAMBLING INFORMATION TO OTHER STATES	1/13	1/25		DO PASS	1/25	VOTE: 16-0	1/26
HB0174	HAGENER, TONI	REVISE NOTICE OF DECREES OF SEPARATION AND INVALIDITY OF MARRIAGE	1/13	1/24		DO PASS	1/24	VOTE: 18-0	1/25
HB0175	HAGENER, TONI	CHIEF JUSTICE RATHER THAN GOVERNOR TO REASSIGN DISTRICT JUDGES	1/13	1/24		DO PASS	1/24	VOTE: 18-0	1/25
HB0176	HAGENER, TONI	IMPOSE \$5 SURCHARGE ON USERS IN ALL CRIMINAL, CIVIL, AND PROBATE COURT CASES	1/13	1/24		PASS AS AMENDED	2/2	VOTE: 14-5	TAXATION 2/04
HB0177	KOTTEL, DEB	ELIMINATE RT TO TRIAL DE NOVO IN CRIMINAL CASES APPEALED TO DISTRICT COURT	1/13	1/25		PASS AS AMENDED	1/31	VOTE: 17-2	2/01
HB0179	FELAND, GARY	ALLOW TRIAL FOR ESCAPE IN ANY COUNTY IF ESCAPEE DOESN'T OBJECT	1/13	1/24		PASS AS AMENDED	2/1	VOTE: 18-0	2/03
HB0186	KASTEN, BETTY LOU	GENERALLY REVISE LAWS RELATED TO CHILD PROTECTIVE SERVICES	1/13	2/09	POSTPONE ACTION 2/13	PASS AS AMENDED	2/16	VOTE: 16-3	2/17
HB0191	MASOLO, GAY	ESTABLISH A SEX OFFENDER DNA TESTING AND RECORDKEEPING PROGRAM	1/13	1/25	POSTPONE ACTION 2/6	TABLED ON	02/08	VOTE: 10-9	
HB0198	AHNER, CHRIS	REQUIRE PRESENTENCE INVESTIGATION FEES, SET MAX FOR PSI & SUPERVISORY FEES	1/14	1/19		TABLED ON	01/25	VOTE: 16-3	
HB0208	COBB, JOHN	PUBLIC DISCLOSURE OF GAMBLING VIOLATION SANCTIONS THAT ARE IMPOSED	1/14	1/25		DO PASS	1/25	VOTE: 17-0	1/26

House BILL NO. 176

INTRODUCED BY Anthony R. Hagans Colb M. Zick
BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION
Montana Judicial Branch Harding

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE SURCHARGE BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. User surcharge for court information technology -- exception. (1)

Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$5 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$5 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$5 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the state treasurer and deposited in the account established in [section 2] for state funding of court information technology.

NEW SECTION. Section 2. Account established for court information technology -- statutory appropriation. (1) There is an account in the state special revenue fund for state funding of court information technology.

(2) Money collected pursuant to [section 1] must be deposited in this account.

(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used for state funding of court information technology.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the

1 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
2 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
3 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
4 July 1, 1995.)"

5
6 **NEW SECTION. Section 4. Codification instruction.** (1) [Section 1] is intended to be codified as
7 an integral part of Title 3, and the provisions of Title 3 apply to [section 1].

8 (2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the
9 provisions of Title 3, chapter 5, part 9, apply to [section 2].

10
11 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 1995.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0176, as introducedDESCRIPTION OF PROPOSED LEGISLATION:

An act requiring all courts of original jurisdiction to impose a user surcharge in criminal, civil, and probate cases, and providing that the surcharge be used for state funding of court information technology.

ASSUMPTIONS:

1. The volume of case filings, convictions, forfeitures, and appearances used to estimate revenue is based upon incomplete 1994 data.
2. It is estimated that the surcharge will be waived approximately 25% of the time.
3. There will be 10.00 FTE needed to install and maintain an information technology system in the 182 courts in Montana, at a cost of \$338,800 each year of the biennium. Operating costs for the 10.00 FTE will be \$175,000 each year.
4. Equipment costs of \$469,600 each year will be used to place necessary computer hardware and software in each court in the state.
5. A new state special revenue account will be established to accept the new revenue and record the program expenditures.

FISCAL IMPACT:

Judiciary:

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	10.00	10.00
Personal services	338,800	338,800
Operating expenses	175,000	175,000
Equipment	<u>469,600</u>	<u>469,600</u>
Total	983,400	983,400

Funding:

Court Info. Tech. (02)	983,400	983,400
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Revenues:

Court user surcharge (02)	983,400	983,400
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(Continued)

Dave Lewis 1-20-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Toni Hagener
 TONI HAGENER, PRIMARY SPONSOR DATE

Fiscal Note for HB0176, as introduced

HB 176

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (Please explain)

No. Court information technology is paid for by those who use Montana's courts.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

The surcharge, or user fee, is paid by those who use the court system. The financial support for continuing automation of the courts is derived directly from those who use the system. Information technology requires long range planning, and a special revenue fund provides a predictable, stable funding source.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program/activity that is intended? XX Yes No (if no, explain)

- d) Does the need for this state special revenue provision still exist? XX Yes No (Explain)

Statewide automation is currently incomplete.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please explain)

No. Expenditures cannot exceed the revenue generated by the surcharge, but does provide a stable predictable funding source for long and short term information technology planning for the judiciary.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please explain)

Yes. Since 1986, the legislature has appropriated short-term funding which has not been sufficient to complete statewide automation or provide for permanent planning and implementation. Permanent, stable funding will allow the Montana Judiciary to automate the court system, thereby enabling courts to operate more effectively and fulfill constitutional and statutory mandates.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

Provides accounting efficiency as expenditures may not exceed revenue.

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BOB CLARK, on January 24, 1995, at
8:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 174, HB 175, HB 176, HB 179
Executive Action: HB 46 DO PASS AS AMENDED
HB 161 DO PASS AS AMENDED
HB 174 DO PASS
HB 175 DO PASS
HB 93 POSTPONE ACTION

Judge Larson said that was how he would see it operating. A third party would intervene if the judge was incapacitated.

REP. DANIEL MC GEE asked if there were any political implications in this bill at all.

Mr. Rice answered, "No." The only possible political implication, if it could be termed political, that he could foresee would be if the judge for some reason was not performing the duties of office very well.

REP. MC GEE asked if it was Mr. Rice's opinion that this is needed to agree with the Constitution.

Mr. Rice indicated that it did.

Closing by Sponsor:

REP. HAGENER closed.

HEARING ON HB 176

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, introduced HB 176 at the request of the Judicial Unification and Finance Commission. This commission was created by the 1993 legislative session in response to concerns raised by the State Bar of Montana and the Association of Counties that Montana's courts were experiencing funding problems. She discussed the proposals of the commission which included a recommendation of dealing with court funding short falls and the inability to update and modernize court equipment by imposing a user surcharge in criminal, civil, and probate cases. She emphasized that this would be a user fee and would not affect the general fund. She also testified to the need for the modernization of court equipment and the limited funds to manage a statewide automation project. **EXHIBIT 2**

Proponents' Testimony:

James Rice, Attorney, said that this bill is to complete the process of modernizing the district court system and cited examples of the need. The user fee would be paid by those who use the court system at \$5 per case.

Pat Chenovick, Court Administrator, Montana Supreme Court, distributed a chart showing the courts and the status of their automation systems. **EXHIBIT 3** He demonstrated visually and by historical examples the need for automation in those courts where it has not yet taken place. The surcharge was also detailed in his testimony. He reported that REP. GRADY said the subcommittee on appropriations as a whole supports the \$5 surcharge bill in lieu of taking general funds to support automation.

{Tape: 1; Side: B}

John Larson, District Judge, 4th Judicial District, rose in support of the bill. Having served on the Judicial Unification and Finance Commission, he described the makeup of the commission and how they arrived at the recommendations. An alternative to the surcharge might be allocating \$5 of the fees that are received in justice district court to be deposited for automation. He felt the criminal surcharge could be mandatory. He described the practical applications of automation and its benefits to the court system.

Bob Gilbert, Montana Magistrates Association and Montana Clerks of Courts Association, said automation is what is really needed to better serve the court system and provide swift justice.

Gary Spaeth, State Bar of Montana, reported that the State Bar supports this bill because it will help the judicial system and will better serve justice. He said that he could also report that the Montana Trial Lawyers also support this bill.

Lori Maloney, Clerk of the Court, Butte, testified about the need for the updating of the court system.

Opponents' Testimony:

None

Informational Testimony:

EXHIBIT 4 was submitted January 25, 1995, as follow-up to the testimony by **Mr. Chenovick** which addressed the recommendation for automation to improve the processing of juvenile issues in the youth court system.

Questions From Committee Members and Responses:

REP. DEB KOTTEL asked who the initiating party in criminal cases would be.

Mr. Rice replied that it would be the state through the county attorney's office.

REP. KOTTEL asked if it was his belief that the state of Montana representing the people would use the system but not be charged the \$5 user charge in criminal cases.

Mr. Rice said that there were be an exemption from any state agency paying any filing fees.

REP. KOTTEL inquired about subsection (b) whether the state of Montana is ever the initiating party in a civil case.

Mr. Rice answered, "It is."

REP. KOTTEL asked if the state of Montana is ever a defendant in a civil case.

Mr. Rice answered, "It is."

REP. KOTTEL said that when she reads (b) and (c), because this is a user surcharge, not a fee, she wondered if the state of Montana has to pay the user surcharge as either the initiating party in a civil case or as the respondent or the defendant in a civil case.

Mr. Rice deferred to Judge Larson.

Judge Larson said that the statute provides complete exemption.

REP. KOTTEL asked Mr. Rice if he was saying that if the attorney for the defendant filed a special unlimited appearance, the attorney would have to pay the surcharge and at that point, the surcharge would not put the attorney into the jurisdiction of the court.

Mr. Rice replied that his understanding of the language was that some courts, in particular courts of limited jurisdiction, can only process cases that are up to a certain amount and that any case that involves more money than that must go to the district court. This can't be used to add onto this jurisdictional amount.

REP. KOTTEL said if she filed special unlimited appearance for the purpose of contesting the jurisdiction of the court over her and she had to pay a \$5 surcharge, she wouldn't want the payment of the \$5 surcharge to be used as evidence that she came within the jurisdiction of the court. She felt that was what that language was attempting to stop.

Mr. Rice replied that it was his understanding that it was not. (He indicated that Judge Larson agreed with him.)

REP. KOTTEL asked if there was a \$5 surcharge for an involuntary civil commitment.

Mr. Rice said that it is not technically a criminal case and probably would qualify for a waiver.

REP. KOTTEL inquired if this covers restraining orders.

Mr. Rice said that any case presently that has any sort of filing fee attached to it would also have the surcharge attached to it with the appropriate provisions for waiver.

Without objection from the committee, Judge Larson responded that there would be no charge in an involuntary commitment since that proceeding is initiated by the state. In any other proceeding in which people seek restraining orders and do not have the funds, they may apply for a waiver.

{Tape: 1; Side: B; Approx. Counter: 21.3}

REP. SOFT referred to the fiscal note which lists 182 courts while the initial introduction of the bill listed over 200 courts and wanted to know the reason for the difference.

Mr. Chenovick said the difference was based on the premise that there are 182 judges and 224 courts because some of the judges are both justices of the peace and city judges and could be city judges in several city courts.

REP. SOFT again referred to the fiscal note and the number of FTEs to implement the program. He wanted to know who employs these FTEs.

Mr. Chenovick replied that currently in the automation effort, the Supreme Court Administrator's office employed five FTEs.

REP. SOFT asked where they would be located.

Mr. Chenovick said the additional five would be located in Helena and if they can work out a contract arrangement in areas that are a distance from Helena, they would contract with someone to do support in those remote areas.

REP. SOFT asked for what period of time these FTEs would be employed.

Mr. Chenovick replied that the ratio of support to users is about 1 - 50 users. When they get fully automated, it is anticipated that the user base would be in the neighborhood of between 500-600 users. It is anticipated that once the system is in place, they would not need as much support as when they install, train, etc.

REP. SOFT called attention to the budget amount projected for two years and wanted to know what would happen after that time.

Mr. Chenovick said it would cost about \$5 million to update all the courts. Over two years with the amount being requested the project will not be complete but the effort will be to complete 66% or better.

REP. SOFT asked if this meant that the user fee would be charged for two or three fiscal sessions until they are fully up and running.

Mr. Chenovick thought it would cover two biennium or a five-year period.

REP. SOFT asked if this was a pay-as-you-go set up and what would occur if the expected revenue doesn't materialize.

Mr. Chenovick answered by saying that if the anticipated revenue does not materialize, they will automate up to the amount they do receive.

REP. SOFT found it curious that the expenses exactly matched the revenue.

Mr. Chenovick responded that the match-up was coincidental, but they did not want to spend more than they have.

REP. SOFT recalled that they currently receive \$165,000 per year for automation and asked where that fits into the fiscal note.

Mr. Chenovick replied that in the present biennium there is funding that terminates from the general fund at the end of June so that the \$160,000 is no longer available. If they don't receive any more general fund or they cannot collect the \$5 surcharge, they will have to shut down any type of automation.

{Tape: 1; Side: B; Approx. Counter: 28.2}

REP. MC GEE asked how many people use the court that this will apply to.

Mr. Chenovick based his answer on the number of filings in district court in 1994 which were 29,000. He could not say how many different individuals were involved in these filings. In the justice and city courts there were 330,000 filings and this bill exempts the daytime speed limit fine and the seat belt and parking ordinances, leaving about 200,000.

REP. MC GEE calculated that there were about 229,000 filings between the two courts and those would be subject to the \$5 surcharge if all persons are able to pay, making in excess of \$1 million of potential revenue in a year according to that.

REP. HURDLE was curious about other things which would fall on users like this and why the fee isn't higher.

Mr. Chenovick thought a reasonable amount of money an individual could pay would be \$5 and comparable to other user fees charged.

REP. HURDLE asked if the people who do the filing pay the filing fee and if the state is exempted from that.

Mr. Chenovick answered, "Yes, they are."

REP. KOTTEL stated that her understanding is that the difference between a user fee and a user surcharge has to do with the people who use the court system are actually using a service synonymous with photocopies, postage or other service used at the courthouse.

Mr. Chenovick said that was correct.

REP. KOTTEL referred to 25-10-405, MCA, in which it is stated that government agencies are not obligated to pay fees, but they must pay for photocopies, postage, handling, certification, etc. Since the testimony was that this is similar to photocopies, she wondered if the state would not then be obligated under this section to pay the user surcharge for using the court system.

Mr. Rice argued that this is a fee that is a charge essentially tacked on to a filing fee making it more in the nature of a filing fee than it is for the cost of the particular service and therefore, the state would not be obligated to pay it. They would not object to putting a specific provision in the bill to clarify that point.

REP. KOTTEL said that they could go to great length not to call it a fee, instead to call it a surcharge and then treat it as a fee in another section of the statutes so the state doesn't have to pay. She wanted to know if he saw the need for an amendment to 25-10-405, MCA, to include the word, "surcharge."

Mr. Rice replied that he did not know of any other surcharge that might be affected by the inclusion of the language in the referenced section. He felt it might be safer and a better presentation of intent to make the amendment to this bill.

REP. DIANA WYATT clarified that there would be five new FTEs in Helena.

Mr. Chenovick said that was correct.

REP. WYATT asked how they would approach dealing with the local counties and the local districts in terms of providing them with this computer service.

Mr. Chenovick said they would move on the premise that they would automate the courts of the larger jurisdictions first and branch out to get all courts after that. They would evaluate the individual county's ability to contribute match money and would finance it in the ratio that they could afford.

REP. WYATT understood the premise as it concerned hardware and software in Helena, but wondered how they would teach WordPerfect to people in the outlying districts as a reasonable approach in local areas.

Mr. Chenovick replied that they have developed the Judicial Case Management System. While it is being installed, they do word processing training. They are aware that this training is available from local public and private vendors. When the department is there and they can offer that service, they do it. They have developed several complex macros specific to the court system which they teach. If it is appropriate, they pay for court employees to go to those types of training.

REP. WYATT next addressed the time-distance problem with maintenance out of Helena to outlying areas. She felt it would be much more effective to have those people trained within the local communities with contracted service or from persons who are already employed.

REP. SOFT asked if they explored contracting with the private sector to install this system.

Mr. Chenovick said they had been in contact with several private contractors in some counties for installations and basic technical help. But when they considered the addition of the FTEs they were considering ordering the equipment, getting it in Helena, setting it up and putting all the software on it and then installing it as well as training the individuals. If they contracted, they would have to bring the contractor into Helena to train on the Judicial Case Management System. The other problem is that access to certain parts of court records is confidential.

REP. LIZ SMITH requested the amount of funding appropriated to the department that will terminate as of June 1 and when that was appropriated as well as what it has been used for.

Mr. Chenovick replied that the current funding for this biennium was a total of \$560,000. That came from funds which were left over after 100% reimbursement on criminal cases. It is used to pay for staff, development of the Judicial Case Management System and the Limited Court Management System and the purchase of equipment for counties.

REP. SMITH said her constituents have indicated that they would not be supportive of more taxes of any kind; therefore, she wondered if they had considered going to the general fund to request the amount needed for this process.

Mr. Chenovick answered that they had submitted a budget proposal to the subcommittee on appropriations requesting general fund money to do automation and they are waiting to act on that request based on this \$5 surcharge bill.

REP. SMITH asked if they would consider a sunset clause on this bill.

Mr. Chenovick disclosed that this had come up in a conversation with the Chief Justice who believes that any fee of any kind should come up for review and a provision to put a sunset on this fee would be within their agreement. He said they would request a five-year provision to make planning into the future easier.

REP. LINDA MC CULLOCH asked if the proposal for computers included general public user stations or if the computers are

behind desks which would limit the general public from accessing the information themselves.

{Tape: 1; Side: B; Approx. Counter: 48.3}

Mr. Chenovick said the system includes a planned-for station at the counter so that public records would be available to the public.

REP. MC CULLOCH asked if the software would be user friendly for general public use.

Mr. Chenovick said it is very user friendly.

REP. MC CULLOCH asked if the proposal would also tackle the electricity problems typical of courthouses.

Mr. Chenovick replied that they plan to try to solve some of the facility problems with this money.

REP. MC CULLOCH inquired about the prioritizing process.

Mr. Chenovick answered that they prioritized first by the availability of a willing contingency and then by determining if the sites were capable of sustaining the facility installation needs as well as the volume of the courts' work.

REP. DUANE GRIMES asked if they were talking about a network or about individual word processing stations which might be accessible by modem.

Mr. Chenovick said if they get to the point where they can take advantage of the Department of Administration's Summit Net capabilities, they could poll each court and move information into the state mainframe. The Department of Revenue currently has connections into all of the courthouses. It is planned to have a variety of networks and stand-alone systems.

REP. GRIMES wanted to know if the additional five FTEs would be microsystems personnel.

Mr. Chenovick said that was correct.

REP. GRIMES referred to the \$85,000 which is being charged in a similar fashion that is going to community service programs. He asked if that applies to the same people who would be paying this \$5 fee.

Judge Larson answered that if you allowed the \$5 surcharge for each convicted defendant, it would apply (in the 4th Judicial District) to those same defendants who would pay \$85 toward general fund which they recommend be allocated to fund the community service program. Those are people who don't have jobs who owe either the costs of incarceration or who, as a means of

making some payment back to the community in recognition of their crime, are sentenced to do community service.

REP. GRIMES asked which programs are dependent on that \$85.

Judge Larson said it is a work program just in the 4th Judicial District, it is not statewide.

REP. TREXLER asked if this has a fiscal impact to the county for collecting, disbursing, bookkeeping, etc. and how they are compensated for their time.

Mr. Chenovick summarized the process and said he anticipates a simple report not having a significant fiscal impact.

REP. KOTTEL referred to lines 20 and 21 and wondered if there would be an objection to an amendment referring to 25-10-404, MCA.

Mr. Chenovick would not object because that is the intent.

REP. BOHARSKI looked at the provisions of (b) and (c) and asked if it was appropriate that the person being sued also pay the \$5.

Judge Larson said he would have no objection to the concept that each party to a civil action pay \$5 provided they are able to pay.

REP. BOHARSKI felt it was not appropriate to pay the fee just to respond to a civil suit.

Judge Larson understood and said that, in the determination of every civil case the issue of fees and costs, it is up to the judge to allocate. There are protections in the common law for a defendant who is unjustly sued.

REP. BOHARSKI asked if he would foresee in a case like this the same would apply to the losing parties.

Judge Larson answered, "To all parties appearing, yes."

{Tape: 2; Side: A}

Closing by Sponsor:

REP. HAGENER declared the need for these changes and said she had no objection to amendments to clarify difference between surcharge and fees.

EXECUTIVE ACTION ON HB 174

Motion: REP. SHEA MOVED HB 174 DO PASS.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 1/24/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓ late		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ late		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

EXHIBIT 2
DATE 1/29/95
HB 176

JUDICIAL UNIFICATION AND FINANCE COMMISSION
SUMMARY OF PROPOSALS

The Judicial Unification and Finance Commission (JUFC), was created by the 1993 Legislature to study the potential unification and future financing of Montana's courts. The committee is proposing seven Legislative bills and a number of Recommendations.

JUFC LEGISLATIVE PROPOSALS

LC0067 District Court Funding -- Establishes a state cost-sharing program for certain district court expenses in civil proceedings similar to the criminal reimbursement program, except that the state would pay up to 50% of the costs. Eligible expenses under this program are:

(1) Representation of indigent persons who are (a) charged with a misdemeanor in justice court, (b) subject to civil commitment proceedings, (c) youths charged under the Montana Youth Court Act, (d) subject to child dependent and neglected proceedings;

(2) Juvenile probation; and

(3) Court reporters salaries in civil cases.

To pay for the civil reimbursement program the legislation imposes a mandatory 0.1% light vehicle tax. Funding for the 50/50 cost share would be statutorily appropriated for the above stated civil expenses. Counties will continue to have the option to levy a light vehicle tax up to 0.4% and the bill makes

permanent the present distribution of option tax monies (50% the county and 50% to the cities, towns, and outlying areas of the county on the basis of population) thereby removing the previous sunset provision which otherwise would become effective on July 1, 1995.

RATIONALE: The Legislature should act LC67 to provide state funding for up to 50% of each county's most volatile or uncontrollable court expenses in civil cases: indigent representation, juvenile probation and court reporters' salaries. More than half of Montana's counties are experiencing serious shortfalls in their district court budgets. District court expenses such as indigent defense and juvenile probation are volatile and unpredictable. Unexpectedly high expenses can seriously affect the stability of county budgets and fiscally hurt some counties more than others. Furthermore, county commissions have no authority to control some expenses that are dictated by statute such as salaries for court reporters and juvenile probation officers. The bill also eliminates the sunset provision in the existing 0.5% light vehicle option tax thereby guaranteeing counties a permanent source of revenue for district court and other needs as well as a permanent source of revenue for cities and towns.

LC0130 Civil Commitment Proceedings -- Provides that payment for civil psychiatric evaluation and treatment costs incurred in involuntary civil commitment proceedings will be assumed by the state, and will be paid from the state general fund.

RATIONALE: Seriously mentally ill persons, who were formerly cared for in state custodial institutions, are now the

responsibility of the counties of which they are "residents." (53-21-113 M.C.A.) During civil involuntary commitment proceedings, such persons must be hospitalized and a typical hospitalization is two to four weeks at an average cost of \$1,200 per day. Seriously mentally ill persons from outlying counties tend to take up residence in counties which have mental treatment centers and thus the burden of these expenses tends to impact urban counties disproportionately. Such expenses are escalating, they are unpredictable, and they cannot be controlled at the local level. Such expenses exceeded \$1.2 million during the 1993-1994 biennium. By shifting these expenses from the counties to the state general fund, the cost of caring for such patients would again be assumed by state and the counties would no longer be subject to uncontrollable expenses mandated by the state for which no funding mechanism is otherwise provided.

LC0066 Post Conviction Relief Expenses -- Provides that the district court criminal reimbursement program pay certain costs for post conviction relief hearings and habeas corpus proceedings and for certain expenses incurred by the state in federal habeas corpus cases challenging the validity of conviction or of a sentence.

RATIONALE: Current statutes (Title 46, Chapters 21, 22) provide that a person convicted and sentenced for a criminal offense may file a petition challenging the validity of the court's judgment. These post-conviction relief proceedings involve expenses for evidentiary hearing and court appointed counsel. The district court criminal reimbursement program funded under Section

3-5-901 M.C.A. does not reimburse counties for these expenses. Although exact data is not available it is estimated that the cost of these proceedings state wide is probably less than \$20,000 per year and adding this category to the criminal reimbursement program will not require any additional funding sources.

LC0065 Court Automation -- Requires all courts of original jurisdiction to impose a \$5.00 user surcharge (to be statutorily appropriated) in criminal, civil, and probate cases to be used for state funding of court information technology.

RATIONALE: In 1990, the Supreme Court ordered the Office of Court Administrator to provide automation for the 182 courts in Montana. Contemplated projects include computerized legal research, automation of district court records, state wide access to court records, automation of traffic citations and fine collections and others. Although some progress has been made there is no funding mechanism in place to continue. The \$5.00 user surcharge would provide funding to allow the continued development of court automation.

LC0064 Court Record Retention -- Requires counties to establish a fund for district court records retention, preservation, and technology. Clarifies the disposition of district court fees and raises certain district court fees by \$5.00 in most cases. Provides that the increase in fees be deposited in the county fund for district court records retention, preservation and technology.

RATIONALE: District courts must provide for the storage and preservation of district court records, some of which date back

to 1880. However, counties have no specific budgets for maintaining such records. The objective of LC64 is to provide the funds necessary for the clerks of district courts to effectively maintain, store, and preserve such records.

LC0063 Assignment of District Judges to Other Districts -

- Provides that the Chief Justice, rather than the Governor, has the authority to temporarily assign a district judge to hold court in a district other than the judge's own district. Eliminates the requirement that such assignment is pursuant to a request by an interested person or by written order.

RATIONALE: Present §§ 3-5-111 and 3-5-112 M.C.A. provide that the Governor has the authority to assign a district judge to hold district court in another district if by reason of caseload or other circumstances the elected judge of the district is unable to do so. These statutes violate the constitutional separation of powers. Under the amended statutes, the Chief Justice will assume these functions and the requirement that an interested person must first request the reassignment is eliminated.

LC0062 Seven Member Supreme Court -- Makes permanent the provision setting the number of associate justices on the Montana Supreme Court at six.

RATIONALE: This provision would retain the present seven member court which otherwise will be reduced to a five member court pursuant to a sunset provision effective January 6, 1997. Since 1979, when the Legislature first authorized a seven member court, the number of Supreme Court cases has been increasing and between

1983 and 1993, the annual number of cases rose from 561 to 659. In fiscal year 1993, the Supreme Court issued 437 opinions, or about 62 opinions per justice. If the court were reduced to five members, the number of opinions per justice per year would increase to about 87, a 40% increase. Retention of a seven member court is essential to keep pace with the increasing work load.

ADDITIONAL RECOMMENDATIONS

The JUFC also made the following additional recommendations for which no legislation was proposed.

RECOMMENDATION NO. 2: Continue to explore long term solutions. The Legislature should continue to explore long term funding solutions that ensure the sufficient, stable and equitable funding of Montana's district courts, including the potential for total state assumption of district court funding. Furthermore, if the Montana Supreme Court establishes an advisory council (see Recommendation (No. 6) the advisory council should explore court funding needs and should advise the Supreme Court and the Legislature on ways to allocate resources in the most efficient and effective manner possible.

RECOMMENDATION NO. 5: Pursue grant funding. The judicial branch in each county and court individually should actively seek funds being made available to state courts through the federal crime control bill and other court grant programs.

RECOMMENDATION NO. 6: Judicial advisory council and regional conferences. The Montana Supreme Court should establish a judicial advisory council to conduct long range strategic planning for the judicial branch. Among the issues that the

advisory council should examine are total state funding, court unification options, judicial compensation (which remains among the lowest in the nation), and court reporter employment issues.

Membership on the advisory council should include one representative each appointed by:

(1) The Supreme Court, District Court judges, Magistrates Association, Clerks of District Courts, the Court Reporters Association, the State Bar of Montana, the Montana Association of Counties, the Montana League of Cities and Towns, the Sheriffs and Peace Officers Association, the Governor, the Senate and the House of Representatives.

In conjunction, the Supreme Court should provide for regional conferences to enhance communication between judicial officials and courts at all levels.

The JUFC endorses the efforts of the Montana Judges Association to address these issues within the judicial branch.

RECOMMENDATION NO. 11: Use available technology.

The Legislature, judiciary and local government should strongly support the use of available technology, especially the Montana Educational Telecommunications Network (METNET), to improve court operations. The METNET system, which provides a two way interactive, televideo capability, should be available to as many courts as possible so that initial hearings can be conducted without the cost and security risks of transporting a defendant from the jail or detention center to the court of jurisdiction.

RECOMMENDATION NO. 12: Modify the budgetary and revenue system (BARS).

The Department of Commerce and Office of Court Administrators should work together to modify the budgetary and accounting revenue systems (BARS) format to establish a more uniform system for counting reporting of court expenditures. Uniform and accurate reporting of expenditure data is essential to determining the fiscal status of Montana's court systems.

RECOMMENDATION NO. 13: Address juvenile justice issues.

The Legislature should thoroughly examine and expeditiously address problems with Montana's juvenile justice system, especially confidentiality, sentencing, and extended jurisdiction issues involving serious juvenile offenders.

SUPREME COURT INSTALLED AND SUPPORTED COMPUTER SYSTEMS IN MONTANA'S JUDICIAL DISTRICTS
As of January 18, 1995

District	Courts	Location	System
1st	6	Montana Supreme Court, Court Admin, Law Library Lewis & Clark Co. DC, JP & City Courts Broadwater Co. JP/City Court, Townsend	Novell Network - 45 Workstations Novell Network - 24 Workstations 1 Standalone Workstation
3rd	5	Deer Lodge Co. Clerk of DC, Anaconda Deer Lodge Co. JP, Anaconda Granite Co. Clerk of DC, Philipsburg Powell Co. DC & JP, Deer Lodge	1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation Novell Network - 8 Workstations
4th	2	Missoula Co. Clerk of DC, Missoula Missoula Co. City Court, Missoula	Novell Network - 12 Workstations Novell Network - 7 Workstations
5th	5	Jefferson Co. Clerk of DC, Boulder Jefferson Co. JP Court, Boulder Madison Co. JP Court, Virginia City Madison Co. Clerk of DC, Virginia City Madison Co. Dist. Court Judge, Virginia City Beaverhead Co. Dist. Court Judge, Dillon	Novell Network - 3 Workstations 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation
6th	3	Park Co. DC, JP, City Courts, Co. Attorney, Livingston	Novell Network - 11 Workstations
7th	5	Dawson Co. Clerk of DC, Glendive McCone Co., Clerk of DC, Circle Richland Co., District Court, Sidney Richland Co., JP Court, Sidney Wibaux Co. District Court, Wibaux	Novell Network - 6 Workstations 1 Standalone Workstation 2 Standalone Workstations 2 Standalone Workstations 1 Standalone Workstation

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8th	1	Cascade Co., Clerk of DC, Great Falls	7 Standalone Workstations (to be networked Spring 95)
9th	5	Glacier Co. Clerk of DC, Cut Bank Glacier Co. JP/City Court, Cut Bank Pondera Co. Clerk of DC, Conrad Pondera Co. JP, Conrad	Novell Network - 3 Workstations 1 Standalone Workstation 2 Standalone Workstations 1 Standalone Workstation
10th	3	Fergus Co. Clerk of DC, Lewistown Judith Basin Co. JP/City, Standford	1 Standalone Workstation 1 Standalone Workstation
11th	3	Flathead Co. DC & JP Courts, Co. Attorney, Kalispell Flathead Co. City Court, Kalispell	Novell Network - 30 Workstations Novell Network - 3 Workstation
12th	3	Chouteau Co. Clerk of DC, Fort Benton Hill Co. Clerk of DC, Havre Liberty Co. Clerk of DC, Chester	1 Standalone Workstation Novell Network - 6 Workstations 2 Standalone Workstations
13th	5	Big Horn Co. Clerk of DC, Hardin Carbon Co. DC & JP, Red Lodge Yellowstone Co. City Court, Laurel Yellowstone Co. District Court, Billings	2 Standalone Workstations Novell Network - 5 Workstations 1 Standalone Workstations Novell Network - 20 Workstations
14th	1	Musselshell Co. JP, Roundup	1 Standalone
15th	4	Roosevelt Co. Clerk of DC, Wolf Point Roosevelt Co. JP/City Court, Wolf Point Sheridan Co. JP, Plentywood	2 Standalone Workstations 1 Standalone Workstation 1 Standalone Workstation

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16th	6	Custer Co. Clerk of DC, Miles City Custer Co. City Court, Miles City Fallon Co. Clerk of DC, Baker Powder River Co. Clerk of DC, Broadus Powder River Co. JP Court, Broadus Rosebud Co. JP, Colstrip	2 Standalone Workstations 1 Standalone Workstation Novell NetWare Lite - 2 Workstations 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation
17th	4	Blaine Co. Clerk of DC, Chinook Phillips Co. Clerk of DC, Malta Valley Co. Clerk of DC, Glasgow Valley Co. JP, Glasgow	Novell Netware Lite - 2 Workstations 1 Standalone Workstation 2 Standalone Workstations 1 Standalone Workstation
18th	4	Gallatin Co. District Court, Bozeman Gallatin Co. JP, Bozeman Gallatin City Court Montana Water Courts, Bozeman	Novell Network - 18 Workstations Novell Network - 4 Workstations Novell Network - 3 Workstations (DC?) Novell Network - 12 Workstations
19th	3	Lincoln Co. Clerk of DC, Libby Lincoln Co. JP Court, Libby Lincoln Co. JP Court, Eureka	Novell Network - 5 Workstations Novell Netware Lite - 4 Workstations Novell NetWare Lite - 2 Workstations
20th	2	Lake Co. District Court, Polson Sanders Co. Clerk of DC, Thompson Falls	Novell Network - 4 Workstations 1 Standalone Workstation
21st	2	Ravalli Co. Clerk of DC & JP Court, Hamilton	Novell Network - 11 Workstations
TOTAL	72		

The Supreme Court of Montana
Office of the Court Administrator



PATRICK A. CHENOVICK
Court Administrator

EXHIBIT 4
DATE 1/24/95
HB 176

JUSTICE BUILDING—ROOM 315
215 NORTH SANDERS
PO BOX 203002
HELENA, MONTANA 59620-3002
TELEPHONE (406) 444-2621

January 25, 1995

Representative Bob Clark
Chairman, House Judiciary Committee
Capitol Station
Helena, Montana 59620

Dear Chairman Clark and members of the Committee:

In followup on my testimony on January 24, 1995, in regards to HB 176, I submit to you and the members of the committee letters of support for the automation efforts of the Supreme Court. These letters are addressed to the chair of the General Government Appropriations Subcommittee, but reflect the support for continued automation of the courts in Montana. As I stated, I have asked for General Fund support of this effort, Chairman Grady is holding our request to see the outcome of the HB 176. He has indicated that HB 176 is a proper method to improve the system, have the users pay for the improvements.

In the testimony I gave to the committee I missed an important point. An audit of the Juvenile Justice system in Montana in 1993, by the office of the Legislative Auditor, made strong statements concerning the data available on juvenile issues. The audit recommended and we are trying to put into place a system to provide management information on juvenile issues so that the youth courts can improve their handling of juvenile cases. I have attached a portion of the audit concerning this recommendation.

I thank you and the committee for the opportunity to testify in support of HB 176, and ask for favorable concurrence.

If I can provide additional information or answer questions, please advise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat Chenovick".
Patrick Chenovick

Chapter III - Youth Court Operations

a single judicial district to increase parental contributions, there is no established statewide procedure or mechanism to implement a successful parental contributions function. The probation officers association, JPOA, has developed standardized court orders for youth courts which address the requirements for parental contributions. However, there is currently no assurance of adoption of these standardized procedures by the youth courts.

Youth Courts have Primary Responsibility for Establishing Parental Contributions

According to statute youth courts are responsible for the first step in the process. The court has to examine financial ability to pay prior to court ordered disposition to DFS, in every case. The court order must specify the amount of parental contribution determined by the court before the process can proceed. The Supreme Court in unison with DFS should establish standard rules and forms to insure youth court awareness and compliance with current statutory requirements for the examination and provision of parental contributions.

Recommendation #2

We recommend the Supreme Court and DFS establish parental contribution procedures to insure youth court compliance with the law requiring documented consideration of parental contributions.

There is No Youth Court Management Information System

During interviews with juvenile probation officers, we asked for information and/or statistics on probation officer activities such as: number of youths referred, types of crimes, success of intervention programs, etc. In most districts, we found youth courts do not develop or compile any type of comprehensive information on youth court activity. While probation officers indicated they submit some numerical data to the Montana Board of Crime Control via the Juvenile Probation Information System, most also indicated neither this data nor any other information concerning their daily activities is used to evaluate operations. Compiling

Chapter III - Youth Court Operations

management information is either perceived as too time-consuming or as having no value relative to day-to-day job requirements.

There is a Lack of Data on Program Outcomes

As a result of youth courts not compiling management information, and therefore not conducting ongoing evaluations of their performance, youth courts cannot differentiate between programs in terms of whether youth intervention and diversion program are effective. For example, probation officers indicated the use of shelter care or group homes as a common youth intervention technique because of their access and availability, rather than because their success rates justified the continued use of these DFS-funded options. Similar logic was expressed for restitution and community service programs; that is, they are used because of probation officer perceived "lessons" these programs can provide youths, rather than because of a documented success of diversion and victim repayment.

Development and maintenance of management information is needed to evaluate the operational aspects of an organization as well as to measure staff performance and program outcomes. Further, studies by the National Center for Juvenile Justice state:

- juvenile developmental offense patterns exist, which if properly identified and monitored, can predict repeat activity and lead to specific future treatment program development.
- both judges and probation officers need criminal activity and offense pattern information to make treatment decisions.

At present, there is no statewide system to gather and compile information on youth intervention and diversion program effectiveness. Although the Supreme Court until 1990 maintained a Statewide Judicial Information System, according to Supreme Court officials it was discontinued due to other funding priorities resulting from reduced appropriations. Currently, the Supreme Court is working with the various courts in Montana to establish a Judicial Case Management System. Although the system's current capability is limited to civil cases, and is only in place in some counties, it is being designed to create a statewide judicial information system.

Chapter III - Youth Court Operations

Recommendation #3

We recommend the Supreme Court in unison with the youth courts work towards a management information system which includes data on youth court programs.

June Little
Clerk of The District Court
Sixth Judicial District

Telephone 222-6120 Ext. 234
Area Code 406

PARK COUNTY, MONTANA

EXHIBIT 4
DATE 1-24-95
HB 176

Box 437
Livingston, Montana 59047

January 6, 1995

Representative Ed Grady
State Capitol
Helena, MT 59620

Dear Mr. Grady,

As Clerk of District Court of Park County, Montana, I strongly support funding for automation of the Courts.

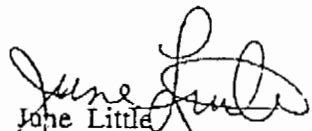
My office is automated at this time and is networked with the County Attorney, Justice of the Peace, City Court Judge, and the Juvenile Office. We hope to also have our District Judge on the network in the next few months.

We have depended solely on the Court Administrators Office for technological support and to end funding at this time would be detrimental and a severe set-back to our county, as well as any other counties that have done the same.

Automation has increased efficiency in my office such as not hiring additional help, less printing costs, and easier access to records by the public.

Automation is here and is a part of our future. It has become a necessity for our office and feel it is going to become a necessity for all Courts of Montana and ask that you help support funding for this bill.

Sincerely,


June Little
Clerk of the District Court

NANCY SWEENEY
CLERK OF DISTRICT COURT

Lewis and Clark County Courthouse

P. O. Box 158

Helena, Mt 59624-0158

447-8216

January 6, 1994

Ed Grady
Vice Chairman
House Appropriations Committee
State Capitol
Helena, MT 59620

Dear Sir,

I have worked with the Supreme Court Administrator's office as Clerk of Court for the past year. During this time my office has worked with Dana Corson and the staff of the office of the Court Administrator on development of a new Judicial Case Management System (JCMS). They have continued to provide excellent support services for the current system and in a very limited time and despite numerous unanticipated problems, continue to develop a superior JCMS product.

This office served as a pilot program for the Court Administrator's JCMS program seven years ago and continues assisting in the development and refinement of the Court Administrator's JCMS product. We are very excited with the enhancements and added flexibility developed in the new JCMS and look forward to providing any further assistance possible. My office has experienced the benefits of court automation and simply could not process the work at existing staff levels without automation.

It is my opinion that Lewis and Clark County would not have in the past and could not now provide the financial or technical assistance necessary to support this system without the Court Administrator's office. I would encourage the committee to continue this valuable service to the counties by recommending continued funding for this program.

Sincerely,



Nancy Sweeney
Clerk of District Court

DATE 1-24-95

HB 176

McCone County

Circle, Montana 59215

Fax (406) 485-2689

COMMISSIONERS

Aron King
 Connie Esslinger
 Kenton E. Larson
 Box 199
 485-3500

ASSESSOR

Laura E. Wittenberg
 Box 179
 485-3565

CLERK & RECORDER

Leanne K. Switzer
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CLERK OF THE COURT

Betty L. Robinette
 Box 199
 485-3410

COUNTY ATTORNEY

John F. Link
 Box 199
 485-3530

COUNTY HEALTH DEPT.

Patricia Winkopp
 Sue Good-Brown
 Box 47
 485-2444

COUNTY PLANNER

Mary Garfield
 Box 199
 485-3505

JUSTICE OF THE PEACE

Dwight Burton
 Box 192
 485-3548

SHERIFF

Robert A. Jensen
 Box 207
 485-3405

TREASURER /

SUPT. OF SCHOOLS
 Janet L. McCabe
 Box 180
 485-3590

TO: JUDICIAL FUND COMMITTEE
 HONORABLE ED GRADY, CHAIRMAN

FROM: BETTY L. ROBINETTE *Betty L. Robinette*
 CLERK OF DISTRICT COURT
 MCCONE COUNTY, MONTANA

DATE: JANUARY 6, 1995

SUBJECT: FUNDING FOR COURT AUTOMATION

Please give your every consideration to the funding necessary to allow the Court Administrator's Office to continue with the automation of Montana Courts.

The Court Administrator's Office has just recently installed a computer and printers in my office which I purchased through them. I am very pleased with the service as Dana Corson and his staff were very prompt and efficient from the purchase to the installation of the equipment.

The Court Administrator's Office has been working on the Montana Judicial Case Management System and it should be ready to be installed in all counties in Montana in the near future. Montana's court system has been in the dark ages too long. We need to be automated and computerized.

TO: Ed Grady

FROM: Ardelle Adams, Clerk of District Court, Glendive, Montana

DATE: January 6, 1995

RE: Ed Grady

* * * * *

I'm writing in support of automation for the Clerks of District Court that the Montana Court Administrator's Office has started. Because of the past funding received from the State, many clerks are now automated and we find our work to be superior. The Court Administrator's Office has been doing a great job and working very hard getting as many offices as possible running efficiency with the computers. I'm asking for your support as money is needed to continue this effect.

I thank you,

*Ardelle Adams
Clerk of District Court*

CLERK OF THE DISTRICT COURT
RAVALLI COUNTY COURTHOUSE BOX 5014
HAMILTON MT 59840
Telephone (406) 363-1900
Fax (406) 363-4478

EXHIBIT 4
DATE 1-24-95
HB 176

DEBBIE HARMON
Clerk

JUDITH A. VOIGT
Chief Deputy

GRACE KNOWLES
Deputy

MARY SAWYER
Deputy

MAUREEN WOFFORD
Deputy

JUDY ROUSE
Deputy

TODAY'S DATE: January 6, 1995

TO FAX NO. 444-3274

ATTENTION: Ed Grady
State Capitol
Helena MT 59624

MESSAGE:

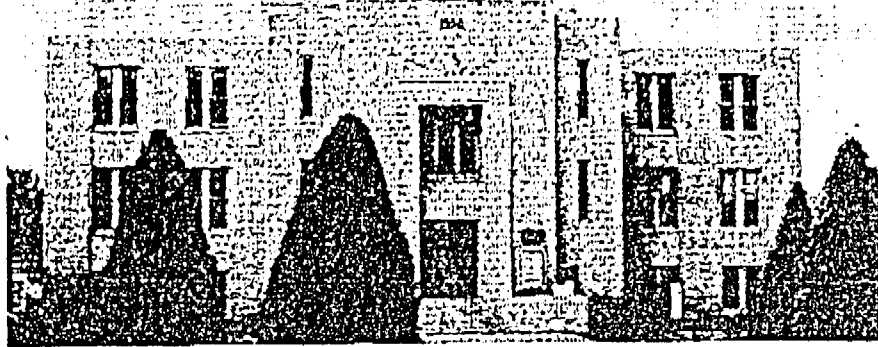
RE: Automation Funding for District Courts

We urge you to support the funding for the District Court, as many counties, including Ravalli County, are unable to adequately supply the Court system with modern computer technology.

The Court Administrators office has worked diligently on our behalf to provide us with computers and software for the case management program. Ravalli County would still be in the dark ages if the Court Administrators office has not helped us out with computers. Please support the funding for the Automation.

Thank you for your consideration,

Debbie Harmon, Clerk of Court



GLACIER COUNTY
CUT BANK, MONTANA

MARY PHIPPEN
CLERK OF DISTRICT COURT
GLACIER COUNTY COURTHOUSE
512 EAST MAIN STREET
CUT BANK MT 59427
(406) 873-5063 Ext. 36

January 6, 1995

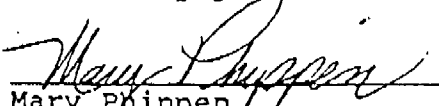
Representative Ed Grady
State Capitol
Helena MT 59624

Dear Representative Grady:

I am writing to express SUPPORT for continued funding for District Court Automation. In order to be assured of continued technical support, continued funding is a NECESSITY, especially for rural counties.

Your support of continued funding for District Court Automation is appreciated.

Very truly yours,


Mary Phippen
Clerk of District Court

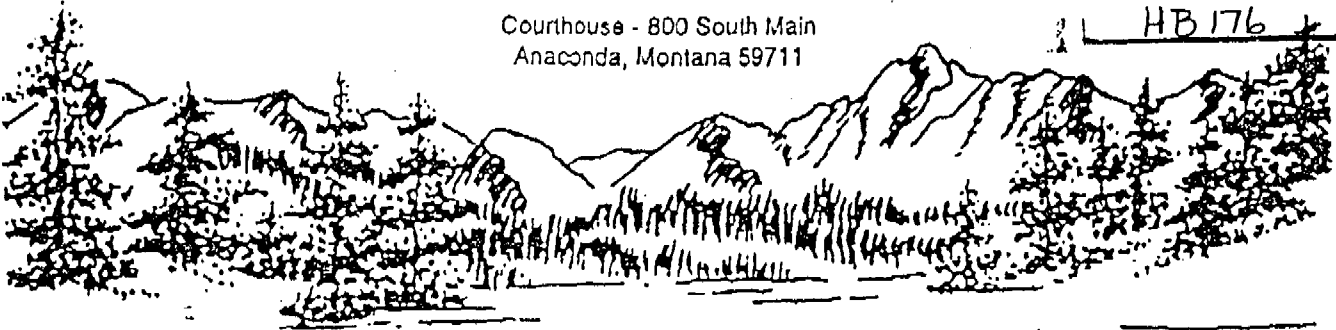
EXHIBIT

4

ANACONDA-DEER LODGE COUNTY DATE 1-24-95

Courthouse - 800 South Main
Anaconda, Montana 59711

HB 176



Clerk of District Court

Phone Number 563-8421

January 6, 1995

Representative Ed Grady
State Capital
Helena, MT 59620

Dear Representative Grady:

We, from the District Court Clerks Office in Anaconda-Deer Lodge County, support the Court Administrator's request for funding for automation. Our office is about to be included in the network and without this funding it will be a severe setback. The Clerk's of Court are on the brink of automation statewide and without this funding the efficiency of the court system will suffer greatly.

Sincerely,

*Theresa Orrino*Theresa Orrino
Clerk of the Third Judicial District Court
Anaconda-Deer Lodge County

By:

Susie McNeil

Susie McNeil

Deputy Clerk of District Court

JUDICIARY

DATE 1-24-95

PLEASE PRINT

CS-14

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BOB CLARK**, on February 2, 1995, at 7:00 AM.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Shiell Anderson, Vice Chairman (Majority) (R)
Rep. Diana E. Wyatt, Vice Chairman (Minority) (D)
Rep. Chris Ahner (R)
Rep. Ellen Bergman (R)
Rep. William E. Boharski (R)
Rep. Bill Carey (D)
Rep. Aubyn A. Curtiss (R)
Rep. Duane Grimes (R)
Rep. Joan Hurdle (D)
Rep. Deb Kottel (D)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Brad Molnar (R)
Rep. Debbie Shea (D)
Rep. Liz Smith (R)
Rep. Loren L. Soft (R)
Rep. Bill Tash (R)
Rep. Cliff Trexler (R)

Members Excused: NONE

Members Absent: NONE

Staff Present: John MacMaster, Legislative Council
Joanne Gunderson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 253, HB 309
Executive Action: HB 176 DO PASS AS AMENDED
HB 244 TABLE
SB 36 BE CONCURRED IN AS AMENDED

{Tape: 1; Side: A}

EXECUTIVE ACTION ON HB 244

Motion: REP. DEBBIE SHEA MOVED HB 244 DO PASS.

Discussion: REP. SHIELL ANDERSON said he planned to vote against HB 244 because he believed it was a problem which was limited to a certain area. If they don't include all of these crimes and don't allow the judge the option of releasing a person on bail or on their own recognizance while awaiting appeal in order to get their affairs in order, (they will know in most communities if a defendant is likely to flee or not) this puts an extra burden on the jails or prison. He felt the cure was worse than the ailment. If the defendant is a risk, the judge can certainly order that he be detained while he is awaiting appeal. There are three or four misdemeanors listed and he felt it would be overstepping to put a misdemeanant in jail out of hand without any possibility of hearing from him while he may not be a risk at all. He preferred leaving this with the discretion of the judge rather than creating a law to put everybody in jail.

Motion/Vote: REP. ANDERSON MOVED TO TABLE HB 244. The motion carried 13 - 6, REPS. CLARK, WYATT, SOFT, MC CULLOCH, SHEA AND BOHARSKI voting no.

EXECUTIVE ACTION ON HB 176

Motion: REP. JOAN HURDLE MOVED HB 176 DO PASS.

Discussion: REP. ANDERSON said he would vote for it though he believed there was a better way to approach the underfunding though he knew the courts need a way to fund their automation and this would help.

REP. DEB KOTTEL said she was also going to vote for it but discussed her objections. She felt the state of Montana should not be exempt from the user surcharge.

Motion: REP. KOTTEL MOVED TO AMEND PAGE 1, LINE 20 (EXHIBIT 1).

Discussion: REP. WILLIAM BOHARSKI asked if there is anyone who cannot afford to pay \$5.

REP. KOTTEL said she did not know but gave her reasoning for the amendment.

CHAIRMAN BOB CLARK said the discussion was not aimed at \$5, but an additional \$5. There already is a \$15 surcharge on a misdemeanor.

Vote: The motion carried 18-1, REP. BOHARSKI voting no.

Motion: REP. ANDERSON MOVED HB 176 DO PASS AS AMENDED.

Discussion: REP. BRAD MOLNAR asked what the average person would pay in accumulated filing fees, surcharges and fines.

REP. ANDERSON said that in his experience with criminal cases, they would pay between \$60-\$150; a DUI case would be \$300-\$500.

REP. MOLNAR clarified that this isn't a fine but just a charge for using the system. He wanted to know if they would "cut" two separate checks.

REP. ANDERSON said they would "cut" one check and it would be separated into the categories of fee and fine.

REP. MOLNAR said that he understood that it costs the state \$5 to "cut" one check and that this would not provide anything toward the goal and would just cost the counties more in administration.

CHAIRMAN CLARK said that the counties get 50% off the top of all fines and are not getting shorted. The surcharges are separate and cities keep all of their fines.

REP. LIZ SMITH reminded the committee that there was a constitutional amendment addressing a cap on 4% users fee voted down in the last election for the reason that the voters thought it was suggestive of sales tax.

REP. BOHARSKI referred to lines 17 and 18 which indicate several steps in filing a probate and wanted to know how many times the person would have to pay the \$5. He also asked what is considered an appearance in a civil case.

Without objection from the committee, Pat Chenovick answered that the parties would pay the \$5 once when the probate was filed. He said an appearance would be the initial filing of the case and that is when the \$5 would be paid. It would not be paid on registration of each entry of action.

REP. BOHARSKI asked why a prevailing respondent should pay the \$5.

Mr. Chenovick said the idea behind it is that anyone using the system should pay.

REP. BOHARSKI said that as a respondent he would not be using the court by choice.

Mr. Chenovick replied that even though they are not there by choice, the people are still using the system.

REP. BOHARSKI suggested that the prevailing party pay the charges for the other party.

REP. KOTTEL explained reasons for not accepting that suggestion.

REP. ANDERSON added that it would necessitate adjusting the fiscal note downward drastically if the respondent were taken out of the requirement.

REP. DANIEL MC GEE said he heard it would not apply to each action in a probate, but lines 17 and 18 indicated it would apply to each action.

CHAIRMAN CLARK clarified that it means each action rather than each step of the action.

Motion: REP. BOHARSKI MOVED TO AMEND BY REMOVING ALL REFERENCES TO ALL STATUTORY APPROPRIATIONS, PUTTING THE MONEY INTO THE GENERAL FUND FOR THE APPROPRIATIONS COMMITTEE TO ADMINISTER.

Discussion: REP. BOHARSKI explained his amendment and that it would have the affect of de-earmarking the funds.

REP. HURDLE urged the committee to defeat the amendment. She felt only those using the criminal justice system should support it.

REP. ANDERSON said he would vote in favor of the amendment. He felt the assumption that taxpayers would pay for it was incorrect and that there would be no problem in allocating the funds to court automation from the general fund.

REP. DUANE GRIMES was sympathetic to the arguments and supported the amendment.

REP. DIANA WYATT said that the decision being made would pass down the tax universally without a justifiable specific reason. She was concerned about the fee being charged for the various actions involved in a divorce case. With the funds earmarked, it would be easier to justify it to the public.

CHAIRMAN CLARK said the majority of the money that would be raised would come from criminal cases, traffic fines primarily, and other misdemeanor cases though other types of cases would be somewhat affected. The amendment would not preclude the \$5 from being collected, it would just put it into the general fund without earmarking.

Motion: REP. BOHARSKI MOVED A CONCEPTUAL SUBSTITUTE AMENDMENT INDICATING THE AMOUNT COLLECTED AND SENT TO THE GENERAL FUND WOULD BE INTENDED TO BE USED FOR THE PURPOSES OF FUNDING COURT INFORMATION TECHNOLOGY.

Discussion: John MacMaster explained the amendment.

Vote: The motion carried 14 - 5, REPS. WYATT, KOTTEL, SHEA, MC CULLOCH AND HURDLE voting no.

Motion: REP. ANDERSON MOVED HB 176 DO PASS AS AMENDED.

Discussion: REP. AUBYN CURTISS wanted to know how much impact it would have on the general revenue if it were made a county option since some counties had already developed their system.

REP. MC GEE said this would allow the general fund to place the money necessary to fund those counties which are not yet set up.

Vote: The motion carried 14 - 5, REPS. SMITH, WYATT, MC CULLOCH, MOLNAR and BOHARSKI voting no.

EXECUTIVE ACTION ON SB 36

Motion: REP. WYATT MOVED SB 36 BE CONCURRED IN.

Discussion: REP. MOLNAR suggested that there be mention of a timely objection on page 5 rather than their losing all rights to an objection later. If there is now a 95-99% accuracy rate but technology improved or other information came to light, they should not be barred from filing an objection.

Motion/Vote: REP. MOLNAR MOVED TO STRIKE ON LINE 1 FROM "IF THE ALLEGED" THROUGH "RESULTS." ON LINE 3.

Discussion: REP. BILL CAREY said that the response to that suggestion during the hearing was that the sentence is required by the federal government.

REP. MOLNAR said that he did not believe that anyone has a right to raise an objection to new evidence. He would hope they had misinterpreted something there.

REP. KOTTEL felt that it was necessary to limit the time to bring an objection and that if the objection was not brought within that time period, the paternity issue was settled. Otherwise, the alleged father could protest his paternity for the entire lifetime of the child and avoid responsibility.

REP. MOLNAR rebutted the argument with possible valid reasons for delays in filing objections.

REP. KOTTEL felt that the child should be protected from prolonged or disrupted settlement of paternity issues which would result in negative financial, emotional and psychological ramifications.

REP. MOLNAR said that all his amendment would allow is that if truth is not evident and somebody wants to set the record straight, they have the right to do so without the legislature telling them to be quiet.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL

DATE 2/2/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

EXHIBIT 1
DATE 2/2/95
HB 176

Amendments to House Bill No. 176
First Reading Copy

Requested by Rep. Kottel
For the Committee on the Judiciary

Prepared by John MacMaster
January 24, 1995

1. Page 1, line 20.
Following: "case or"
Insert: "determines pursuant to 25-10-404 that"



HOUSE STANDING COMMITTEE REPORT

February 2, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Judiciary** report that **House Bill 176** (first reading copy -- white) **do pass as amended.**

Signed: *Bob Clark*
Bob Clark, Chair

And, that such amendments read:

1. Title, line 7.

Following: "SURCHARGE"

Insert: "MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS
INTENDED TO"

2. Title, lines 7 and 8.

Strike: "PROVIDING" on line 7 through "MCA;" on line 8

3. Page 1, line 20.

Following: "case or"

Insert: "determines pursuant to 25-10-404 that"

4. Page 1, line 26.

Strike: "account established in [section 2]"

Insert: "state general fund and is intended to be appropriated
and used"

5. Page 1, line 28, through page 3, line 4.

Strike: sections 2 and 3 of the bill in their entirety

Renumber: subsequent sections

6. Page 3, line 6.

Strike: "(1)"

M.H.
Committee Vote:

Yes 19, No 5.

281620SC.Hdh

February 2, 1995
Page 2 of 2

7. Page 3, lines 8 and 9.
Strike: subsection (2) in its entirety

-END-

**HOUSE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY**

Helena, Montana
February 6, 1995

House Chambers
State Capitol

House convened at 1:00 p.m. Mr. Speaker in the Chair. Invocation by Representative George Heavy Runner. Pledge of Allegiance to the Flag.

Roll call. All members present except Representative Mills, excused. Quorum present.

Representative Peck excused at this time.

REPORTS OF STANDING COMMITTEES

BILLS (Hayne, Chairman): 2/6/95
Correctly printed for second reading: HB 142, HB 248, HB 287.
Correctly engrossed for third reading: HB 179, HB 234, HB 235, HB 291, HB 292, HB 294, HB 321, HB 325, HB 326, HB 329, HB 331, HB 337, HB 360, HB 379, HJR 10.
Correctly enrolled: HB 16, HB 37, HB 98, HB 106, HB 108, HB 178, HB 210.
Examined by the sponsor and found to be correct: HB 16, HB 37, HB 98, HB 106, HB 108, HB 178, HB 210.
Signed by the Speaker at 1:30 p.m., 2/4/95: HB 20, HB 30, HB 36, HB 43, HB 44, HB 49, HB 51, HB 67, HB 76, HJR 3.
Delivered to the Governor for his approval at 1:30 p.m., 2/6/95: HB 20, HB 30, HB 36, HB 43, HB 44, HB 49, HB 51, HB 67, HB 76.

APPROPRIATIONS (Zook, Chairman): 2/6/95
HB 142, introduced bill, be amended as follows:

1. Title, line 8.
Following: "10-3-305,"
Insert: "10-3-312,"

2. Page 2, line 4.
Following: "1"
Insert: "that is beyond the capability of local government to adequately respond, thus"

3. Page 6.
Following: line 5
Insert: "Section 7. Section 10-3-312, MCA, is amended to read:
"10-3-312. Maximum expenditure by governor -- appropriation. (1) (a) Whenever an emergency or disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed \$2 million in any biennium, minus any amount appropriated pursuant to [section 8] in the same biennium.
(b) Whenever an emergency or disaster due to fire is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund, an amount not to exceed \$3 million in any biennium. The amount appropriated in this subsection (b) may be combined with the amount appropriated in subsection (1)(a) for an emergency or disaster due to fire.
(2) In the event of the recovery of money expended under this section, the spending authority must be reinstated to a level reflecting the recovery.

HOUSE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 6, 1995

SB 186, introduced by Beck.

SB 204, introduced by Grosfield.

SB 272, introduced by Grosfield.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Representative Grinde moved the House resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Representative Sliter in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

HB 372 - Representative McKee moved HB 372 do pass. Motion carried as follows:

Ayes: Ahner, Anderson, Arnott, Barnett, Barnhart, Bergman, Bergsagel, Boharski, Bohlinger, Brainard, Carey, Clark, Cobb, Cocchiarella, DeBruycker, Denny, Devaney, Ellingson, Elliott, Ellis, Ewer, Feland, Fisher, Forbes, Fuchs, Galvin, Grady, Green, Grimes, Grinde, Hagener, H.S. Hanson, M. Hanson, Harper, Harrington, Hayne, Heavy Runner, Herron, Hibbard, Holland, J. Johnson, R. Johnson, Jore, Kadas, Kasten, Keenan, Knox, Kottel, Larson, Marshall, Martinez, Masolo, McCann, McCulloch, McGee, McKee, Menahan, Mills, Murdock, Nelson, Ohs, Orr, Pavlovich, Peck, Quilici, Raney, Ream, Rehbein, Rose, Ryan, Schwinden, Shea, Simon, Simpkins, Sliter, L. Smith, S. Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Trexler, Tropila, Tuss, Vick, Wagner, Wells, Wennemar, Wiseman, Wyatt, Zook, Mr. Speaker.

Total 96

Noes: Curtiss, Hurdle, Kitzenberg.

Total 3

Voted Absentee: Mills, Peck, Ayes.

Excused: None.

Total 0

Absent or not voting: Molnar.

Total 1

Representative Fuchs excused at this time.

HB 306 - Representative Hayne moved HB 306 do pass. Motion carried as follows:

Ayes: Ahner, Anderson, Barnett, Barnhart, Bergman, Bohlinger, Carey, Clark, Cobb, Cocchiarella, Curtiss, Denny, Devaney, Ellingson, Elliott, Ellis, Fisher, Forbes, Fuchs, Galvin, Grady, Green, Grimes, Grinde, H.S. Hanson, M. Hanson, Harrington, Hayne, Heavy Runner, Herron, Hibbard, Holland, J. Johnson, Keenan, Kitzenberg, Knox, Kottel, Larson, Martinez, Masolo, McCulloch, McGee, McKee, Menahan, Mills, Molnar, Murdock, Ohs, Orr, Pavlovich, Peck, Quilici, Ream, Rose, Ryan, Schwinden, Shea, Simon, Simpkins, Sliter, L. Smith, Somerville, Squires, Stovall, Swanson, Tash, Taylor, Tropila, Tuss, Wells, Wiseman, Wyatt, Zook, Mr. Speaker.

Total 74

HOUSE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 6, 1995

Elliott, Ellis, Ewer, Feland, Fisher, Grady, Green, Grimes, Hagener, H.S. Hanson, Herron, Hibbard, Holland, Hurdle, J. Johnson, R. Johnson, Jore, Kasten, Keenan, Marshall, Martinez, Masolo, McGee, McKee, Molnar, Orr, Quilici, Ream, Rose, Shea, Simon, Somerville, Squires, Story, Swanson, Tash, Taylor, Vick, Wennemar, Wiseman, Wyatt, Mr. Speaker.

Total 53

Voted Absentee: Mills, Aye.

Excused: None.

Total 0

Absent or not voting: Arnott, Kottel.

Total 2

HB 176 - Representative Hagener moved consideration of HB 176 be passed for the day. Motion carried.

SB 36 - Representative Grinde moved consideration of SB 36 be placed at the top of the second reading board. Motion carried.

Representative Grimes moved SB 36 be concurred in.

Representative Ellingson moved consideration of SB 36 be passed for the day. Motion carried.

Representative Grinde moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Sliter moved that the Committee of the Whole report be adopted. Report adopted. (97-0)

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 179 passed as follows:

Ayes: Ahner, Anderson, Arnott, Barnett, Barnhart, Bergman, Bergsagel, Boharski, Bohlinger, Brainard, Carey, Clark, Cobb, Cocchiarella, Curtiss, DeBruycker, Denny, Ellingson, Elliott, Ellis, Ewer, Feland, Fisher, Forbes, Fuchs, Galvin, Grady, Green, Grimes, Grinde, Hagener, H.S. Hanson, M. Hanson, Harper, Hayne, Heavy Runner, Herron, Hibbard, Holland, J. Johnson, R. Johnson, Jore, Kadas, Kasten, Keenan, Kitzenberg, Knox, Kottel, Larson, Marshall, Martinez, Masolo, McCann, McCulloch, McGee, McKee, Menahan, Molnar, Murdock, Nelson, Ohs, Orr, Pavlovich, Peck, Quilici, Raney, Ream, Rehbein, Rose, Ryan, Schwinden, Shea, Simon, Simpkins, Sliter, L. Smith, S. Smith, Soft, Somerville, Squires, Story, Stovall, Swanson, Tash, Taylor, Trexler, Tropila, Vick, Wagner, Wells, Wennemar, Wiseman, Wyatt, Zook, Mr. Speaker.

Total 95

Noes: Hurdle.

Total 1

HOUSE JOURNAL
THIRTY-FIRST LEGISLATIVE DAY - FEBRUARY 6, 1995

HB 176 - Representative Hibbard moved HB 176 be taken from second reading and rereferred to the Committee on Taxation. Motion carried.

HB 421 - Representative Grimes moved HB 421 be taken from the Committee on Human Services & Aging and rereferred to the Committee on Local Government. Motion carried.

HB 234 - Representative Squires moved she be allowed to change her vote on HB 234, third reading, from not voting to aye. Motion carried.

HB 372 - Representative Sliter moved HB 372 be allowed to change his vote on HB 372, second reading, from not voting to aye. Motion carried.

HB 306 - Representative Sliter moved he be allowed to change his vote on HB 306, second reading, from not voting to aye. Motion carried.

HB 122 - Representative Sliter moved he be allowed to change his vote on HB 122, second reading, from not voting to aye. Motion carried.

ANNOUNCEMENTS

Committee meetings were announced by committee chairmen.

Representative Grinde moved the House adjourn until 1:00 p.m., Tuesday, February 6, 1995. Motion carried.

House adjourned at 3:10 p.m.

John Mercer, Speaker

Marilyn Miller, Chief Clerk

HOUSE TAXATION

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ----- DATE READ

HB0149	MERCER, JOHN		PROVIDE VIDEO GAMING TAX REVENUE & CREDITS IN AREAS WHERE NEGOTIATIONS FAIL	TABLED ON 00/21	VOTE:	
HB0149	MERCER, JOHN	1/12 2/07	PROVIDE VIDEO GAMING TAX REVENUE & CREDITS IN AREAS WHERE NEGOTIATIONS FAIL	TABLED ON 02/10	VOTE:	
HB0156	COBB, JOHN	1/12 1/27	CLASS EIGHT PROPERTY -- PROPERTY WITH LOW SALVAGE VALUE HAS NO TAX VALUE		VOTE:	
HB0164	HARPER, HAL	1/12 1/20	TAX ON COMPRESSED NATURAL GAS; LICENSING; RECORDS; ADMINISTRATION; ENFORCE	DO PASS	VOTE:	1/25
HB0171	MERCER, JOHN	1/12 1/17	THE EXCESS TAX REFUND AGREEMENT (EXTRA); 1995 REFUND OF EXCESS FUND BALANCES	PASS AS AMENDED	VOTE:	1/19
HB0176	HAGENER, TONI	2/06 2/15	IMPOSE \$5 SURCHARGE ON USERS IN ALL CRIMINAL, CIVIL, AND PROBATE COURT CASES	PASS AS AMENDED	VOTE:	2/15
HB0181	COBB, JOHN	1/13 2/15	REVISE PROPERTY TAX RELIEF FOR LOW - TO - MODERATE INCOME HOUSEHOLDS		VOTE:	
HB0182	COBB, JOHN	1/13 1/19	INCREASE NURSING FACILITY UTILIZATION FEE -- APPROPRIATION	TABLED ON 01/20	VOTE:	
HB0183	COBB, JOHN	1/13 1/19	INDEX CLASS 4 PROPERTY TAX RATE TO PERIODIC REVALUATION CHANGES	TABLED ON 02/01	VOTE:	
HB0188	WISEMAN, WILLIAM	1/13 1/20	REQUIRE PUBLIC HEARING BEFORE LOCAL OPTION TAX ON LIGHT VEHICLES IS CHANGED	PASS AS AMENDED	VOTE:	2/10
HB0199	ELLIOTT, JIM	1/14 1/24	MAKE PERMANENT TAX CREDIT FOR CONTRIBUTIONS TO U-SYSTEM AND PRIVATE COLLEGES	DO PASS	VOTE:	1/27
HB0202	NELSON, THOMAS	1/17 1/25	ALLOW INDIVIDUAL INCOME TAX DEDUCTION FOR 1/2 MEDICAL INSURANCE PREMIUMS		VOTE:	

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 15, 1995,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 424
HB 176
HB 181

Executive Action: HB 424 - Do Pass as Amended
HB 176 - Do Pass as Amended
HB 449 - Do Pass as Amended

{Tape: 1; Side: A.}

HEARING ON HB 176

Opening Statement by Sponsor:

REP. TONI HAGENER, House District 90, Havre, said that HB 176 was being introduced at the request of the Judicial Unification and Finance Commission which was created by the 1993 legislative session in response to concerns raised by the State Bar of Montana and the Montana Association of Counties that Montana's courts were running out of money. The study revealed that 36 counties had District Court funding problems. HB 176 would address the problem of funding shortfalls by requiring that all courts of original jurisdiction impose a \$5 user surcharge on criminal, civil and probate cases to be used for funding of court information technology. REP. HAGENER stressed the importance of courts being able to keep up with the technological advances that will allow them to handle an increasing number of cases. She said there is no other source of funding.

Proponents' Testimony:

REP. ED GRADY, House District 55, Helena, said that the General Government Appropriations Sub-Committee, of which he is Chairman, had heard this bill. He said it is a worthy program but, rather than using general fund money, the Committee felt the people who use the system should support it; therefore, they did not provide funding. He asked the Taxation Committee to take a positive stand on the bill.

Bob Gilbert, representing the Montana Magistrates Association and the Montana Association of Clerks of District Courts, spoke in favor of the bill. He said there is a need to continue to automate the courts and he encouraged the Committee to pass the bill.

Pat Chenovick, Administrator for the Supreme Court, provided a list illustrating the status of supreme Court installed and supported computer systems in the judicial districts. EXHIBIT 1. At the present time 72 of a total of 224 courts in Montana are automated. Mr. Chenovick also distributed copies of letters from court clerks and judges who support this legislation. EXHIBIT 2. The ability of the courts to work effectively and efficiently is hampered by their inability to keep or disseminate information and provide statistics. As an example, he said a person could be charged with domestic violence or sexual abuse in one county and then go to another county and commit the same offense and that county would be unaware of the first offense. It is important that the courts have the ability to exchange this kind of information statewide. Passage of HB 176 would allow the courts to move into the age of technology and handle increased caseloads. Mr. Chenovick said that after June 30, 1995, his office will have no funds for court automation and, because of

this, he is finding it difficult to retain a permanent workforce. This bill would provide a permanent source of funding and he encouraged the Committee to support the bill.

Nancy Sweeney, Clerk of District Court, Lewis and Clark County, testified in favor of the bill. Her comments are attached as EXHIBIT 3. She said that Lewis and Clark County had served as a pilot program for automation of the district courts and it has been a very successful program. The automation has allowed them to maintain their staffing levels for 15 years.

{Tape: 1; Side: B.}

Gary Spaeth, State Bar of Montana, testified in support of the bill.

Gordon Morris, Montana Association of Counties, said he had testified in support of this bill before the Appropriations Committee because it would move Montana onto the super highway of information. He encouraged the Committee's favorable consideration.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. WELLS inquired about the costs of automation. **Mr. Chenovick** said that it had cost \$1.1 million to automate the 72 sites. This included the purchase of hardware and the development of judicial case software as well as training and troubleshooting. Since they began the project five years ago, technology has advanced and there are now more features. Hardware costs to do the remaining sites would be \$2.6 million. With the revenue that this bill would generate, it will take three years to automate all sites and at that time, the sites that were installed five years ago will need to be upgraded. At the present time they are installing only the basics in order to get all courts on-line.

REP. WELLS asked how many employees were working on the project in the Court Administrator's office. **Mr. Chenovick** said five employees take care of the entire statewide system. **REP. WELLS** asked how these employees were funded. **Mr. Chenovick** said they had received \$560,000 in funding in the last biennium from funds that were "left over" in other budgets, one year from the Department of Community Services and one year from the Department of Social and Rehabilitative Services. He said this method of funding makes it difficult to do any planning.

REP. SOMERVILLE asked how valuable the information is that will be put on the system. **Mr. Chenovick** said the system will allow the courts to be able to take care of their case load. It will give the state information on the court system which may indicate

where effective changes can be made. It will give the district courts a better handle on restitution.

REP. SOMERVILLE asked if other alternatives had been considered in addition to the surcharge. **Mr. Chenovick** said the Commission had looked at how other states have funded their court functions and it appeared that the best way was to have the users pay to improve the system. They also discussed earmarking funds sent to the general fund by the courts but the surcharge seemed to be the most logical solution.

REP. ELLIOTT asked how the laws passed by the Legislature regarding crime affect the workload of the courts and whether they add to the expense of running the courts. **Mr. Chenovick** replied that, depending on the nature of the statute, there would be increases in the workload, especially in the district courts. Some of the laws being considered in this session, such as registration of sex offenders for life, will greatly affect the workload and is an instance where automation would have great importance. Without automation, it would be necessary to go to the court and search through handwritten records. Other laws might decrease the workload, depending on the Legislature.

REP. ARNOTT asked why the bill requires that the surcharge be collected and sent to the state rather than being retained in the court of original jurisdiction. **Mr. Chenovick** said the main reason was that they could assure that system would be uniform throughout the state and all information would be in the same format.

REP. MURDOCK asked if all the counties that are automated have the same equipment and software. **Mr. Chenovick** said that when the program started in 1986, Missoula and Cascade Counties had equipment in place. The court recognized that they had money invested and did not force them to move to a different system. Because they have programmers on staff, they are able to provide information in the appropriate format. As they upgrade, they will be consistent with the rest of the state.

Closing by Sponsor:

REP. HAGENER said she was sure that everyone on the Committee was aware of the changes computer technology has on everyone's life. She pointed out that the courts referred to are the courts of record which require registration of every action that occurs in the court. The technology revolution has just begun. She said the information handwritten into a \$1,200 book by the Clerk of Court would be stored on a CD-Rom costing \$15 and would be copied and stored at another location to prevent loss of valuable records. She said she hoped the Committee would concur with the necessity for providing a way to incorporate technology into the courts. She pointed out that a representative of the Workers Comp Court had pointed out that they are a court of original

jurisdiction and they would need to have an exemption in the bill which will be submitted as an amendment.

REP. SOMERVILLE requested, prior to executive action, a breakdown of how the fees paid into the court are distributed. Ms. Sweeney advised that she had that information and copies were provided to the Committee. EXHIBIT 4.

{Tape: 2; Side: A.}

HEARING ON HB 424

Opening Statement by Sponsor:

REP. BOB KEENAN, House District 75, Bigfork, opened the hearing by introducing Cort Harrington who would explain the bill.

Proponents' Testimony:

Cort Harrington, Montana County Treasurers Association, said the purpose of the bill is to correct a problem that arose with the major revision in property taxation which took place in 1987. Every year since the county treasurers have been trying to make improvements in the legislation. The change is minor and would require that before a 24-month redemption period would apply, there must be delinquent SIDs or RSIDs. An amendment to the bill has been suggested that would clarify that the 24-month redemption period would only apply if there are special improvement districts.

Lance Parks, Montana Association of Realtors, went on record in support of the bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

REP. KEENAN said he had closed.

HEARING ON HB 181

Opening Statement by Sponsor:

REP. JOHN COBB, House District 50, Augusta, said HB 181 would provide tax relief for low and moderate income households. The law is already on the books and this bill would raise the value of the home and amount of income which would be exempt at the

EXECUTIVE ACTION ON HB 424

Motion:

REP. REAM MOVED THAT HB 424 DO PASS.

Discussion:

REP. HANSON said an amendment had been suggested by the Bozeman City Finance Manager which would make the bill more acceptable.

REP. SWANSON explained that the amendment clarified that the bill would apply to SIDs and not TO all taxes. EXHIBIT 6.

Motion/Vote:

REP. HANSON MOVED THAT THE AMENDMENT TO HB 424 DO PASS. The motion passed unanimously.

Motion:

REP. REAM MOVED THAT HB 424 AS AMENDED DO PASS. The motion passed unanimously.

EXECUTIVE ACTION ON HB 176

Motion:

REP. WENNEMAR MOVED THAT HB 176 DO PASS.

Discussion:

CHAIRMAN HIBBARD said this bill had a thorough hearing in the Judiciary Committee where it was considered from the legal aspect and he reminded the Committee that its focus should be on tax policy. It was the Committee's responsibility to determine if it is appropriate to put this fee on users of the court system.

REP. ELLIOTT said there was also an issue of earmarking funds. He said there are many arguments for and against but, in this case, a fee would be imposed for a particular purpose, deposited in the general fund, and appropriated by the Legislature for a particular purpose. His concern was that there was no guarantee that the next Legislature would continue to fund the courts.

Motion:

REP. ELLIOTT MOVED TO AMEND THE BILL TO RE-INSERT LANGUAGE TO PROVIDE FOR A STATUTORY APPROPRIATION.

Discussion:

REP. NELSON spoke in favor of the amendment. From a philosophical standpoint, it is not the Committee's responsibility to determine whether the courts need computers or not because the Judiciary Committee determined that they did. The Taxation Committee's decision is funding. If it goes to the floor of the House, they can put the two issues together and make a decision.

REP. REAM said he had concerns about de-earmarking and asked how much funding for the district courts came from the general fund. Without objection, Pat Chenovick, Court Administrator, said the Court Administrator is funded entirely from general fund. No other fees going into the general fund support the district courts, other than the portion that goes to the judges' retirement fund.

REP. HANSON asked if each county would keep the fees if the money is de-earmarked.

REP. ELLIOTT said he understood that the bill, as amended, would provided that the fees would be paid into the general fund and there would be a statutory appropriation.

REP. WENNEMAR agreed that the amendment was a good idea. He said there are arguments on both sides about de-earmarking, but it is the Committee's responsibility to see that the money goes where intended.

Vote:

On a voice vote, the amendments passed unanimously.

Discussion:

REP. ORR spoke against the bill because it is a user fee, but not a voluntary user fee. It is only \$5 but still adds up to \$1 million. He said the Judicial Unification and Finance Commission had worked on the issues and made a lot of suggestions, but they did not address efficiency. He also objected to the bill because the fee will stay on forever and there will be requests from the judicial system for higher fees because they "need more and better stuff."

REP. ELLIOTT argued that Rep. Orr's concerns were not for this Legislature to decide. It was not appropriate for this Legislature to make a decision that would preempt the decision of a future Legislature.

REP. ARNOTT said she agreed that efficiency should be addressed.

REP. NELSON referred to the list of sponsors of the bill and noted that many of those listed were closely related to the Appropriations Committee and it was their job to look at efficiencies. They have identified that there is a need and the

Taxation Committee must decide if the funding mechanism is appropriate.

REP. ELLIOTT said that with automation there will undoubtedly be increased efficiency in the courts but he pointed out that the additional money and FTEs are needed to implement the efficiency. It would be hard to determine how much money will eventually be saved because the workload of the courts is increasing. He said the axiom that "you have to spend money to make money" would be appropriate.

REP. SOMERVILLE said he liked the concept in the bill.

Motion/Vote:

REP. SOMERVILLE MOVED TO AMEND THE BILL TO ADD A SUNSET DATE AS OF JUNE 30, 1999. On a voice vote, the motion passed, 14 - 6.

Motion:

REP. WENNEMAR MOVED THAT HB 176 AS AMENDED DO PASS.

Discussion:

REP. WENNEMAR said there would be greater efficiency with the computers although it will require ten FTEs. The inefficiency of the current system is that it is difficult to locate information such as previous DUI or abuse citations in another county where there is reliance on a handwritten system.

CHAIRMAN HIBBARD said it was becoming apparent that funding for district courts was on a poor foundation because they are funded by a sales tax on vehicles. Now there is a request for fees because there is a partially completed computer system that has been funded from "small pots of money that were found here and there." He commented that at some time it will be necessary to find sound, broad-based funding for the district court system.

REP. ORR said the discussion was moving into the philosophy and efficiency of the court system. He commented that with society becoming more litigious, if the court system becomes more efficient, it will encourage more litigation. He said the bill is a "lawyer's relief act."

{Tape: 3; Side: A; .}

Vote:

On a roll call vote, the do pass as amended motion passed, 15 - 5.

HOUSE TAXATION COMMITTEE

February 15, 1995

Page 11 of 11

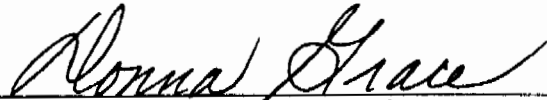
REP. REAM, Minority Vice Chair, expressed appreciation to Chairman Hibbard from the minority party for the good job he had done. He also acknowledged the majority members of the Committee and commented on the excellent discussions of tax policy that had been taken place in the Committee without any rancor. He was pleased to say it had been one of the best Taxation Committees he had served on in recent years, irregardless of who had been in the majority.

ADJOURNMENT

Adjournment: 10:15 a.m.



CHASE HIBBARD, Chairman



DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE 2/15/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 2/15/95 BILL NO. 176 NUMBER

MOTION: Do Pass as Amended

NAME	YES	NO
Vice Chairman Marian Hanson	✓	
Vice Hairman Bob Ream	✓	
Rep. Peggy Arnott	✓	
Rep. John Bohlinger	✓	
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs	✓	
Rep. Hal Harper	✓	
Rep. Rick Jore		✓
Rep. Judy Rice Murdock	✓	
Rep. Tom Nelson	✓	
Rep. Scott Orr		✓
Rep. Bob Raney	✓	
Rep. Sam Rose	✓	
Rep. Bill Ryan		✓
Rep. Roger Somerville		✓
Rep. Robert Story	✓	
Rep. Emily Swanson	✓	
Rep. Jack Wells		✓
Rep. Ken Wennemar	✓	
Chairman Chase Hibbard	✓	

15

5

SUPREME COURT INSTALLED AND SUPPORTED COMPUTER SYSTEMS IN MONTANA'S JUDICIAL DISTRICTS
As of January 18, 1995

District	Courts	Location	System
1st	6	Montana Supreme Court, Court Admin, Law Library Lewis & Clark Co. DC, JP & City Courts Broadwater Co. JP/City Court, Townsend	Novell Network - 45 Workstations Novell Network - 24 Workstations 1 Standalone Workstation
3rd	5	Deer Lodge Co. Clerk of DC, Anaconda Deer Lodge Co. JP, Anaconda Granite Co. Clerk of DC, Philipsburg Powell Co. DC & JP, Deer Lodge	1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation Novell Network - 8 Workstations
4th	2	Missoula Co. Clerk of DC, Missoula Missoula Co. City Court, Missoula	Novell Network - 12 Workstations Novell Network - 7 Workstations
5th	5	Jefferson Co. Clerk of DC, Boulder Jefferson Co. JP Court, Boulder Madison Co. JP Court, Virginia City Madison Co. Clerk of DC, Virginia City Madison Co. Dist. Court Judge, Virginia City Beaverhead Co. Dist. Court Judge, Dillon	Novell Network - 3 Workstations 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation
6th	3	Park Co. DC, JP, City Courts, Co. Attorney, Livingston	Novell Network - 11 Workstations
7th	5	Dawson Co. Clerk of DC, Glendive McCone Co., Clerk of DC, Circle Richland Co., District Court, Sidney Richland Co., JP Court, Sidney Wibaux Co. District Court, Wibaux	Novell Network - 6 Workstations 1 Standalone Workstation 2 Standalone Workstations 2 Standalone Workstations 1 Standalone Workstation

EXHIBIT
DATE 8/15/95
HB 176

8th	1	Cascade Co., Clerk of DC, Great Falls	7 Standalone Workstations (to be networked Spring 95)
9th	5	Glacier Co. Clerk of DC, Cut Bank Glacier Co. JP/City Court, Cut Bank Pondera Co. Clerk of DC, Conrad Pondera Co. JP, Conrad	Novell Network - 3 Workstations 1 Standalone Workstation 2 Standalone Workstations 1 Standalone Workstation
10th	3	Fergus Co. Clerk of DC, Lewistown Judith Basin Co. JP/City, Standford	1 Standalone Workstation 1 Standalone Workstation
11th	3	Flathead Co. DC & JP Courts, Co. Attorney, Kalispell Flathead Co. City Court, Kalispell	Novell Network - 30 Workstations Novell Network - 3 Workstation
12th	3	Chouteau Co. Clerk of DC, Fort Benton Hill Co. Clerk of DC, Havre Liberty Co. Clerk of DC, Chester	1 Standalone Workstation Novell Network - 6 Workstations 2 Standalone Workstations
13th	5	Big Horn Co. Clerk of DC, Hardin Carbon Co. DC & JP, Red Lodge Yellowstone Co. City Court, Laurel Yellowstone Co. District Court, Billings	2 Standalone Workstations Novell Network - 5 Workstations 1 Standalone Workstations Novell Network - 20 Workstations
14th	1	Musselshell Co. JP, Roundup	1 Standalone
15th	4	Roosevelt Co. Clerk of DC, Wolf Point Roosevelt Co. JP/City Court, Wolf Point Sheridan Co. JP, Plentywood	2 Standalone Workstations 1 Standalone Workstation 1 Standalone Workstation

16th	6	Custer Co. Clerk of DC, Miles City Custer Co. City Court, Miles City Fallon Co. Clerk of DC, Baker Powder River Co. Clerk of DC, Broadus Powder River Co. JP Court, Broadus Rosebud Co. JP, Colstrip	2 Standalone Workstations 1 Standalone Workstation Novell NetWare Lite - 2 Workstations 1 Standalone Workstation 1 Standalone Workstation 1 Standalone Workstation
17th	4	Blaine Co. Clerk of DC, Chinook Phillips Co. Clerk of DC, Malta Valley Co. Clerk of DC, Glasgow Valley Co. JP, Glasgow	Novell Netware Lite - 2 Workstations 1 Standalone Workstation 2 Standalone Workstations 1 Standalone Workstation
18th	4	Gallatin Co. District Court, Bozeman Gallatin Co. JP, Bozeman Gallatin City Court Montana Water Courts, Bozeman	Novell Network - 18 Workstations Novell Network - 4 Workstations Novell Network - 3 Workstations (DC?) Novell Network - 12 Workstations
19th	3	Lincoln Co. Clerk of DC, Libby Lincoln Co. JP Court, Libby Lincoln Co. JP Court, Eureka	Novell Network - 5 Workstations Novell Netware Lite - 4 Workstations Novell NetWare Lite - 2 Workstations
20th	2	Lake Co. District Court, Polson Sanders Co. Clerk of DC, Thompson Falls	Novell Network - 4 Workstations 1 Standalone Workstation
21st	2	Ravalli Co. Clerk of DC & JP Court, Hamilton	Novell Network - 11 Workstations
TOTAL	72		

EXHIBIT 2
DATE 2/15
HB 176

TED L. MIZNER
JUDGE OF THE DISTRICT COURT
409 Missouri Avenue
Deer Lodge, Montana 59722
(406) 846-3680, ext. 38
(406) 563-8421, ext. 222

THIRD JUDICIAL DISTRICT
Deer Lodge, Powell and
Granite Counties

BEVERLY GIANNONATTI
Court Reporter

February 10, 1995

Representative Chase Hibbard
State Capitol
Helena, Montana 59620

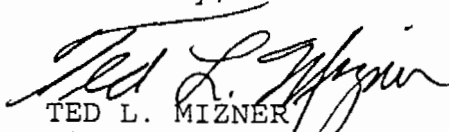
Re: Court Automation

Dear Representative Hibbard:

I am writing to urge your continued support of the Court Automation Program. Each of the three counties in my Judicial District have participated in the program over the years and have benefited greatly from the computer services that are now available. It is my opinion that these computer services will be essential to keep courts abreast of the ever-increasing caseloads. In Powell County the training on the new programs and equipment has just begun. Without the continued funding and training, the substantial investment and commitment made by the State and the County will be essentially lost. Please help us and the entire court system keep this critical automation program point.

Thank you for your consideration, and if you have questions, please call me at 846-3680 ext. 38.

Sincerely,


TED L. MIZNER
District Court Judge



GLACIER COUNTY

CUT BANK, MONTANA

MARY PHIPPEN
CLERK OF DISTRICT COURT
GLACIER COUNTY COURTHOUSE
512 EAST MAIN STREET
CUT BANK MT 59427
(406) 873-5063 Ext. 36

February 14, 1995

Chase Hibbard
Chair, Taxation Committee
State Capitol
Helena MT 59620

RE: HB 176 - "An Act Requiring All Courts Of Original Jurisdiction To Impose A User Surcharge In Criminal, Civil, and Probate Cases; Providing That The Surcharge Be Used For State Funding For Court Information Technology; Providing A Statutory Appropriation; Amending Section 17-7-502 MCA; And Providing An Effective Date."

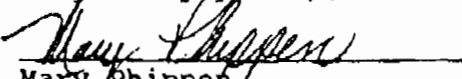
Dear Members of the Taxation Committee:

I am writing in SUPPORT of HB 176. The Glacier County District Court Clerk's Office has been advanced toward Court automation through the efforts of the Court Administrator's Office. In order to maintain adequate technical support and uniformity for statewide Court automation, assurance of continued funding is **ESSENTIAL**.

The proposed User Surcharge is an appropriate funding source to perfect statewide automation of the court system and a statutory appropriation will insure completion of this very difficult endeavor as well as provide a guarantee of future technical support and management of a statewide court automation program.

Your SUPPORT of HB 176 is requested and appreciated.

Very truly yours, .


Mary Phippen
Clerk of District Court

cc: Senator Delwyn O. Gage
Rep. Harriet Hayne
Rep. George Heavy Runner

CLERK OF THE DISTRICT COURT**RAVALLI COUNTY COURTHOUSE BOX 5014****HAMILTON MT 59840****Telephone (406) 363-1900****DEBBIE HARMON**
Clerk**JUDITH A. VOIGT**
Chief Deputy**MARY SAWYER**
Deputy**MAUREEN WOFFORD**
Deputy**JUDY ROUSE**
Deputy

February 13, 1995

Attention: Chase Hibbard
Chairman of Committee of House Taxation

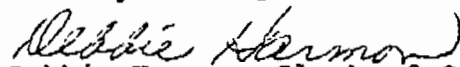
RE: HOUSE BILL 176

We urge you to support House Bill 176, which would provide funding for computer automation.

Many counties are unable to supply the Court system with modern computer technology. The Court Administrators office has worked diligently on our behalf to provide us with computers and software for our case management program. Without their help, Ravalli County would not have any computers in the District Court.

Please support the funding for the Automation, either by the \$5.00 user surcharge or by General funding.

Thank you for your consideration,


Debbie Harmon, Clerk of Court

TWENTY-FIRST JUDICIAL DISTRICT
STATE OF MONTANA
RAVALLI COUNTY

EXHIBIT 2

2-15-95

HB 176



JEFFREY H. LANGTON
DISTRICT JUDGE

RAVALLI COUNTY COURTHOUSE
COURTHOUSE BOX 5012
HAMILTON, MONTANA 59840
(406) 863-3412

February 14, 1995

To: Hon. Chase Hibbard, Chairman, and
House Taxation Committee

Ladies and Gentleman:

This is to express my continuing support of H.B. 176 which would require a modest surcharge on Court filing fees to support the Montana Supreme Court's continuing efforts to upgrade Court information technology. This is a vital need for the Courts and one we cannot afford to under fund.

Increasing caseloads and meager staffing require development and application of available information technology to better manage existing cases and delay the need for additional staff. I urge your earnest consideration of this reasonable proposal.

Sincerely Yours,

A handwritten signature in dark ink, appearing to read "Jeffrey H. Langton", is written over the typed name and title.

Jeffrey H. Langton
District Judge

CLERK OF COURT
Fifth Judicial District
Madison County Courthouse
P.O. Box 185
Virginia City, Montana 59755-0185

JERRY R. WING
Clerk of Court

Telephone
406-843-5392

Bundy K. Bailey
Chief Deputy

Fax
406-843-5517

February 10, 1995

House Taxation Committee
Chase Hibbard, Chairman
Capitol Station
Helena, MT 59620

Re: House Bill 176

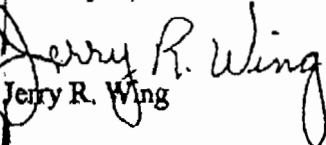
I am writing to support the effort of the Supreme Court Administrators Office to find a funding source so that they may continue with the computerization of the Courts.

A uniform program is being prepared for all District Courts and without the money to continue, we will be years behind in correlation of the functions of our offices, without help many of the smaller counties will not be interested in purchasing the equipment they will require to utilize the technology available.

It appears that a certain portion of our population is using the court system much more that the average public, they should be helping to provide new equipment and training for the Clerk of Courts Office.

Please give this bill serious consideration as a way to raise money for the improvement of our equipment and education.

Thank you,


Jerry R. Wing

The Justice Court

Barbara Brook

JUSTICE OF THE PEACE



P.O. Box 277
Virginia City, Montana
59755
MADISON COUNTY

February 10, 1995

House Taxation Committee
Chas Hibbard
54th Legislature
State Capitol Building
Helena, Montana 59620

Dear Mr. Hibbard and Fellow Committee Members,

I am writing to you in support of House Bill #176. I believe that there is a need for state funding for Court Information Technology.

More and more Courts across the state are becoming computerized and uniform Court programs and technical assistance are very much in demand. More money is needed so this assistance will be available. This in turn will assist Courts in case management and record keeping.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "MaryAnn O'Malley". The signature is fluid and stylized, with a long horizontal flourish at the end.

MaryAnn O'Malley
Madison County Justice of the Peace

TO: Chase Hibbard

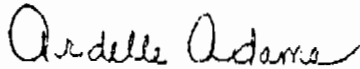
FROM: Ardelle Adams, Clerk of District Court

DATE: February 13, 1995

RE: House Bill No. 176

I'm asking for your support of House Bill No. 176, a user surcharge for court information technology. The Court Administrator's Offices has done a superb job automating many of our offices in a short time. All of the Clerk of Court's Offices need to be computerized for more efficiency and cost saving. I'm asking for your support as money if needed to continue this program.

Thank you,



*Ardelle Adams
Clerk of District Court*

EXHIBIT 2

2-15-95

HB 176



McCone County

Circle, Montana 59215

Fax (406) 485-2689

COMMISSIONERS

Aron King
Connie Essinger
Kenton E. Larson
Box 100
485-3500

ASSESSOR

Laura E. Wittenberg
Box 170
485-3565

CLERK & RECORDER

Leanne K. Switzer
Box 199
485-3505

CLERK OF THE COURT

Betty L. Robinette
Box 199
485-3410

COUNTY ATTORNEY

Kendall F. Link
Box 199
485-3530

COUNTY HEALTH DEPT.

Patricia Wittkop
Sue Good-Brown
Box 47
485-2444

COUNTY PLANNER

Mary Garfield
Box 199
485-3505

JUSTICE OF THE PEACE

Dwight Burton
Box 199
485-3548

SHERIFF

Robert A. Jensen
Box 207
485-3405

TREASURER /

SUPT. OF SCHOOLS

Janet L. McCabe
Box 100
485-3590

TO: HOUSE AUTOMATION COMMITTEE
HONORABLE CHASE HIBBARD, CHAIRMAN

FROM: *Betty L. Robinette*
BETTY L. ROBINETTE
CLERK OF DISTRICT COURT
MCCONE COUNTY, MONTANA

DATE: FEBRUARY 13, 1995

SUBJECT: HOUSE BILL NO. 176

MONTANA COURTS NEED TO BE AUTOMATED!!

Please recommend that House Bill No. 176 be passed in order that the Court Administrator's Office will have the funds available to continue with the automation of Montana Courts.

The Court Administrator's Office has been working on the Montana Judicial Case Management System and should have it ready to be installed in all counties in Montana in the near future. Montana's court system has been in the dark ages too long. We need to be automated and computerized.

**DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
JEFFERSON COUNTY**

• Post Office Box H • Boulder, Montana 59632 •
Phone (406) 225-4251, Ext. 58
Fax (406) 225-3275

Mrs. Marilyn J. Stevens
Clerk of Court

Marilyn A. Craft
Deputy Clerk

February 10, 1995

Rep. Chase Hibbard
Capital Station
Helena, MT 59620-1706

Dear Rep. Hibbard:

I am writing this letter in support of the Court Administration section of the Judiciary Department for the State of Montana.

This department provides invaluable assistance and support to us in our work particularly in the field of electronic technology. Their expertise and dedication has enabled us to "computerize" most of our record keeping so that we can provide more efficient and faster service. I urge you to support this very necessary department.

Sincerely,

MARILYN J. STEVENS

MARILYN J. STEVENS
Clerk of District Court

cc: Dana Corson, Court Administrator's Office ✓

COPY

CLERK OF DISTRICT COURT

Lewis and Clark County Courthouse

P. O. Box 158

Helena, Mt 59624-0158

447-8216

EXHIBIT 3
DATE 2/15/95
HB 176

February 14, 1995

Chase Hibbard
Chairman
House Taxation Committee
State Capitol
Helena, MT 59620

Chairman Hibbard and Committee Members,

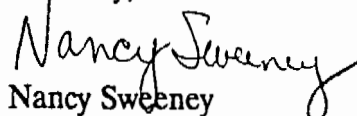
I am submitting this letter in support of House Bill 176. This bill provides a revenue source to assist in funding court automation through the Supreme Court Administrator's office. I have worked with the Supreme Court Administrator's office as Clerk of Court for the past year. During this time my office has worked with Dana Corson and the staff of the office of the Court Administrator on development of a new Judicial Case Management System (JCMS). They have continued to provide excellent support services for the current system and in a very limited time and despite numerous unanticipated problems, continue to develop a superior JCMS product.

Court automation of 56 counties has been a formidable task. Many of the difficulties the court automation project has experienced can be directly attributable to the inadequate and temporary nature of the funding that the Court Administrator's office has received in the past. Limited funding prohibits competitive salaries and valuable time is wasted on recruitment and training when employees can easily secure better paying and more secure employment. It is vital that the State provide adequate and permanent funding so the Administrator's office can move forward with the difficult task of court automation of the entire state.

Lewis and Clark County served as a pilot program for the Court Administrator's JCMS program seven years ago and continues assisting in the development and refinement of the Court Administrator's JCMS product. We are very excited with the enhancements and added flexibility developed in the new JCMS and look forward to providing any further assistance possible. My office has experienced the benefits of court automation and simply could not process the work at existing staff levels without automation.

Lewis and Clark County can not provide the financial or technical assistance necessary to support this system without the Court Administrator's office. I would encourage the committee to provide a permanent source of revenue for this valuable service and ask you to give a Do Pass recommendation to House Bill 176.

Sincerely,



Nancy Sweeney
Clerk of District Court

KDOWN EFFECTIVE JULY 1, 1993

5	15/8/9	12	14	13	6	7	10
JUDGMENTS	FOREIGN JUDG./ TRANSFERS/ TRANSMISSION	DISSOLUTIONS	SUBSTITUTIONS	MARRIAGE LICENSES	PROBATE	FOREIGN P. R.	INCIDENTAL FEES
\$ 45.00	\$60/10/\$5	\$130.00	\$100.00	\$ 30.25	\$ 70.00	\$ 55.00	MISC.
\$ 15.00		\$ 20.00 10.00		\$.25	\$ 15.00		XXXXXX
3.20	19.20/3.20/1.60				11.20	\$ 11.20	
				6.40			
6.80	40.80/6.80/3.40				23.80	23.80	
			\$100.00				
		40.00					
		5.00					
				14.00			
				9.60			
		35.00					
20.00		20.00			20.00	20.00	

EXHIBIT 4
DATE 2/15/95
HB 176



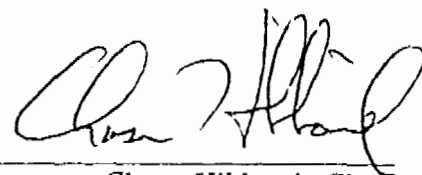
HOUSE STANDING COMMITTEE REPORT

February 15, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that House Bill 176 (first reading copy -- white) do pass as amended.

Signed: _____


Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 7.

Strike: "MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS INTENDED TO"

2. Title, line 9.

Following: "MCA,"

Insert: "PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA;"

Following: "DATE"

Insert: "AND A TERMINATION DATE"

3. Page 1, lines 27 and 28.

Strike: "STATE" on line 27 through "USED" on line 28

Insert: "account established in [section 2]"

4. Page 1, line 29.

Insert: "NEW SECTION. Section 2. Account established for court information technology -- statutory appropriation. (1) There is an account in the state special revenue fund for state funding of court information technology.

(2) Money collected pursuant to [section 1] must be deposited in this account.

(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used for state funding of court information technology.

Section 3. Section 17-7-502, MCA, is amended to read:

Committee Vote:

Yes 15, No 5.

391254SC.Hbk

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending by a
state agency without the need for a biennial legislative
appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective,
a statutory appropriation must comply with both of the following
provisions:

(a) The law containing the statutory authority must be
listed in subsection (3).

(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.

(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901;
[section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301;
15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117;
15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804;
17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502;
19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513;
19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111;
20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306;
23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402;
27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907;
39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232;
50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205;
75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808;
80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136;
82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331;
90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the
principal, interest, premiums, and costs of issuing, paying, and
securing all bonds, notes, or other obligations, as due, that
have been authorized and issued pursuant to the laws of Montana.
Agencies that have entered into agreements authorized by the laws
of Montana to pay the state treasurer, for deposit in accordance
with 17-2-101 through 17-2-107, as determined by the state
treasurer, an amount sufficient to pay the principal and interest
as due on the bonds or notes have statutory appropriation
authority for the payments. (In subsection (3): pursuant to sec.
7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon
death of last recipient eligible for supplemental benefit; and
pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107
terminates July 1, 1995.) ""

Renumber: subsequent sections

Following: "~~(1)~~"
Insert: "(1)"

6. Page 3, line 12.
Insert: "(2) [Section 2] is intended to be codified as an
integral part of Title 3, chapter 5, part 9, and the
provisions of Title 3, chapter 5, part 9, apply to [section
2]."

7. Page 3, line 13.
Following: "date"
Insert: " -- termination date"
Following: "date."
Insert: "(1)"

8. Page 3, line 14.
Insert: "(2) [This act] terminates June 30, 1999."

-END-

**REREFERRED AND APPROVED BY COM
ON TAXATION**

HOUSE BILL NO. 176

INTRODUCED BY HAGENER, COBB, FISHER, CHRISTIAENS, HARDING, QUILICI, GRADY, BECK
BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO
IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE
SURCHARGE ~~MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS INTENDED TO BE USED FOR~~
~~STATE FUNDING OF COURT INFORMATION TECHNOLOGY; PROVIDING A STATUTORY APPROPRIATION;~~
~~AMENDING SECTION 17-7-502, MCA; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION~~
~~17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. User surcharge for court information technology -- exception. (1)

Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$5 user surcharge upon conviction for any conduct made
criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$5 user surcharge at the commencement of
each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$5 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or DETERMINES PURSUANT TO
25-10-404 THAT a party in a civil case is unable to pay the surcharge, the court may waive payment of
the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to
other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of
any court.

(4) The amounts collected under this section must be forwarded to the state treasurer and
deposited in the ~~account established in (section 2)~~ STATE GENERAL FUND AND IS INTENDED TO BE
APPROPRIATED AND USED ACCOUNT ESTABLISHED IN [SECTION 2] for state funding of court
information technology.

NEW SECTION. SECTION 2. ACCOUNT ESTABLISHED FOR COURT INFORMATION TECHNOLOGY

-- STATUTORY APPROPRIATION. (1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.

(2) MONEY COLLECTED PURSUANT TO [SECTION 1] MUST BE DEPOSITED IN THIS ACCOUNT.

(3) MONEY IN THIS ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE SUPREME COURT TO BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.

SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued

pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

~~NEW SECTION. Section 2. Account established for court information technology — statutory appropriation. (1) There is an account in the state special revenue fund for state funding of court information technology.~~

~~(2) Money collected pursuant to [section 1] must be deposited in this account.~~

~~(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used for state funding of court information technology.~~

~~Section 3. Section 17-7-502, MCA, is amended to read:~~

~~"17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3).~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-106; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-206; 19-19-306; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;~~

~~17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;
19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;
20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;
39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;
67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;
80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;
90-6-331; 90-7-220; 90-9-306; and 90-14-107.~~

~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for the payments. (In subsection (3), pursuant to sec.
7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
July 1, 1995.)"~~

NEW SECTION. Section 4. Codification instruction. ~~{1}~~ (1) [Section 1] is intended to be codified
as an integral part of Title 3, and the provisions of Title 3 apply to [section 1].

~~(2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the
provisions of Title 3, chapter 5, part 9, apply to [section 2].~~

**(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 3, CHAPTER
5, PART 9, AND THE PROVISIONS OF TITLE 3, CHAPTER 5, PART 9, APPLY TO [SECTION 2].**

NEW SECTION. Section 5. Effective date -- TERMINATION DATE. (1) [This act] is effective July
1, 1995.

(2) [THIS ACT] TERMINATES JUNE 30, 1999.

-END-

**HOUSE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY**

Helena, Montana
February 15, 1995

House Chambers
State Capitol

House convened at 12:00 p.m. Mr. Speaker in the Chair. Invocation by Representative Roger Somerville. Pledge of Allegiance to the Flag.

Roll call. All members present except Representatives Galvin, Schwinden, Tropila, excused. Quorum present.

REPORTS OF STANDING COMMITTEES

BILLS (Hayne, Chairman): 2/15/95

Correctly printed for second reading: HB 41, HB 150, HB 176, HB 231, HB 259, HB 269, HB 270, HB 289, HB 357, HB 362, HB 364, HB 365, HB 376, HB 408, HB 417, HB 421, HB 424, HB 425, HB 428, HB 432, HB 449, HB 458, HB 460, HB 462, HB 463, HB 448, HB 475, HB 479, HB 480, HB 482, HB 488, HB 494, HB 498, HB 499, HB 502, HB 527, HB 530, HB 536, HB 537, HB 547, HJR 21.

Correctly engrossed for third reading: HB 122, HB 157, HB 214, HB 368, HB 375.

BUSINESS & LABOR (Simon, Chairman): 2/14/95

HB 269, introduced bill, be amended as follows:

1. Title, lines 4 through 7.

Following: "OMBUDSMAN" on line 4

Strike: "AND HEARING BOARD"

Following: "OMBUDSMAN" on lines 5, 6, and 7

Strike: "AND BOARD"

2. Page 1, lines 11 and 23.

Page 4, line 1.

Strike: "3 and 5 through 12"

Insert: "7"

3. Page 1, line 12.

Following: "Ombudsman"

Strike: "and Hearing Board"

4. Page 1, line 18.

Following: "ombudsman"

Strike: "and a hearing board"

Following: "to"

Strike: "resolve the"

Insert: "collect data and provide information regarding"

5. Page 1, line 20.

Following: "in"

Strike: "an equitable implementation of"

Insert: "providing information on"

HOUSE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 15, 1995

HB 421, introduced bill, do pass. Report adopted.

HB 425, introduced bill, do pass. Report adopted.

HB 530, introduced bill, be amended as follows:

1. Page 1, line 26.

Following: "county"

Strike: ", "

Insert: "or an incorporated"

Following: "city"

Strike: ", "

Following: "town"

Strike: "as defined in 2-7-501(7)"

2. Page 1, line 28.

Strike: "auditing"

Insert: "accounting"

3. Page 1, lines 29 and 30.

Strike: "and" on line 29 through "accounting" on line 30

4. Page 2, line 1.

Strike: "method"

5. Page 2, line 13.

Strike: "federal"

Insert: "governmental"

Strike: "advisory"

6. Page 2, line 29.

Following: "hearings"

Insert: ", pursuant to the provisions of 7-1-2121 or 7-1-4127,"

And, as amended, do pass. Report adopted.

TAXATION (Hibbard, Chairman):

2/15/95

HB 176, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS INTENDED TO"

2. Title, line 9.

Following: "MCA;"

Insert: "PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA;"

Following: "DATE"

Insert: "AND A TERMINATION DATE"

HOUSE JOURNAL
THIRTY-NINTH LEGISLATIVE DAY - FEBRUARY 15, 1995

3. Page 1, lines 27 and 28.

Strike: "**STATE**" on line 27 through "**USED**" on line 28

Insert: "account established in [section 2]"

4. Page 1, line 29.

Insert: "**NEW SECTION.** Section 2. Account established for court information technology -- statutory appropriation. (1) There is an account in the state special revenue fund for state funding of court information technology.

(2) Money collected pursuant to [section 1] must be deposited in this account.

(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used for state funding of court information technology.

Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222; 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.) ""

Renumber: subsequent sections

5. Page 3, line 8.

Following: "(4)"

Insert: "(1)"

6. Page 3, line 12.

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Insert: "(2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the provisions of Title 3, chapter 5, part 9, apply to [section 2]."

7. Page 3, line 13.

Following: "date"

Insert: " -- termination date"

Following: "date."

Insert: "(1)"

8. Page 3, line 14.

Insert: "(2) [This act] terminates June 30, 1999."

And, as amended, do pass. Report adopted.

HB 424, introduced bill, be amended as follows:

1. Page 1, line 17.

Strike: "taxes"

Strike: "and"

And, as amended, do pass. Report adopted.

HB 449, introduced bill, be amended as follows:

1. Page 3, line 23.

Strike: "state auditor"

Insert: "department of revenue"

2. Page 3, line 24.

Strike: "agencies. The state auditor"

Insert: "the state. The department"

3. Page 3, line 25.

Page 3, line 28.

Page 4, line 2.

Strike: "state auditor"

Insert: "department"

4. Page 3, line 30 through page 4, line 1.

Strike: "A" on page 3, line 30 through "office." on page 4, line 1

5. Page 5, line 24.

Following: "delinquent,"

Insert: "either proceed under subsection (7) or"

And, as amended, do pass. Report adopted.

SENATE JUDICIARY

Page 2

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0108	COBB, JOHN	DRUG INFORMATION COURSE FOR CONVICTION OF MISDEMEANOR DRUG OFFENSE	2/02 CONCUR	VOTE:	2/02
HB0117	ANDERSON, SHIELL	COMPEL TREATMENT PLAN FOR DEFENDANT FOUND UNFIT TO PROCEED	3/09 CONCUR	VOTE:	3/10
HB0135	COBB, JOHN	REQUIRE ATTORNEY GENERAL TO REPRESENT STATE IN BANKRUPTCY PROCEEDINGS	3/28 3/02 CONCUR	VOTE:	3/03
HB0150	AHNER, CHRIS	CLARIFY THE DUTIES AND MEMBERSHIP OF YOUTH PLACEMENT COMMITTEES	3/13 CONCUR AS AMENDED	VOTE:	3/14
HB0157	DENNY, MATT	LIFE SENTENCE AND LIFE REGISTRATION FOR SEX OFFENDERS	3/10 CONCUR AS AMENDED	VOTE:	3/11
HB0158	FUCHS, DANIEL	REVISE SCAFFOLDING LAWS	3/7 CONCUR AS AMENDED	VOTE:	3/09
HB0160	CURTISS, AUBYN	REGULATE FEDERAL EMPLOYEE ARRESTS, SEARCHES, AND SEIZURES	3/20 ADVERSE RPT ADOPT	VOTE:	3/21
HB0161	CURTISS, AUBYN	INCREASE PENALTY FOR ONE TYPE OF SEXUAL ABUSE OF CHILDREN	3/02 CONCUR	VOTE:	3/03
HB0173	EWER, DAVID	LET DEPT OF JUSTICE GIVE GAMBLING INFORMATION TO OTHER STATES	2/28 CONCUR	VOTE:	3/01
HB0174	HAGENER, TONI	REVISE NOTICE OF DECREES OF SEPARATION AND INVALIDITY OF MARRIAGE	2/28 CONCUR	VOTE:	3/01
HB0175	HAGENER, TONI	CHIEF JUSTICE RATHER THAN GOVERNOR TO REASSIGN DISTRICT JUDGES	2/28 CONCUR	VOTE:	3/01
HB0176	HAGENER, TONI	IMPOSE \$5 SURCHARGE ON USERS IN ALL CRIMINAL, CIVIL, AND PROBATE COURT CASES	3/6 CONCUR AS AMENDED	VOTE:	3/08

HOUSE BILL NO. 176

INTRODUCED BY HAGENER, COBB, FISHER, CHRISTIAENS, HARDING, QUILICI, GRADY, BECK
BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE SURCHARGE ~~MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS INTENDED TO BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. User surcharge for court information technology -- exception. (1)

Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$5 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$5 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$5 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or DETERMINES PURSUANT TO 25-10-404 THAT a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the state treasurer and deposited in the ~~account established in [section 2]~~ STATE GENERAL FUND AND IS INTENDED TO BE APPROPRIATED AND USED ACCOUNT ESTABLISHED IN [SECTION 2] for state funding of court information technology.

1 **NEW SECTION. SECTION 2. ACCOUNT ESTABLISHED FOR COURT INFORMATION TECHNOLOGY**

2 **-- STATUTORY APPROPRIATION. (1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND**
3 **FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.**

4 **(2) MONEY COLLECTED PURSUANT TO [SECTION 1] MUST BE DEPOSITED IN THIS ACCOUNT.**

5 **(3) MONEY IN THIS ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502,**
6 **TO THE SUPREME COURT TO BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.**

7
8 **SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

9 **"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory**
10 **appropriation is an appropriation made by permanent law that authorizes spending by a state agency**
11 **without the need for a biennial legislative appropriation or budget amendment.**

12 **(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply**
13 **with both of the following provisions:**

14 **(a) The law containing the statutory authority must be listed in subsection (3).**

15 **(b) The law or portion of the law making a statutory appropriation must specifically state that a**
16 **statutory appropriation is made as provided in this section.**

17 **(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;**
18 **2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111;**
19 **15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;**
20 **16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201;**
21 **17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;**
22 **19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;**
23 **20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;**
24 **23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;**
25 **39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;**
26 **67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;**
27 **80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;**
28 **90-6-331; 90-7-220; 90-9-306; and 90-14-107.**

29 **(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,**
30 **paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued**

1 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
2 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
3 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
4 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
5 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
6 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
7 July 1, 1995.)"

8

9 ~~NEW SECTION. Section 2. Account established for court information technology—statutory~~
10 ~~appropriation. (1) There is an account in the state special revenue fund for state funding of court~~
11 ~~information technology.~~

12 ~~(2) Money collected pursuant to (section 1) must be deposited in this account.~~

13 ~~(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court~~
14 ~~to be used for state funding of court information technology.~~

15

16 ~~Section 3. Section 17-7-502, MCA, is amended to read:~~

17 ~~"17-7-502. Statutory appropriations—definition—requisites for validity. (1) A statutory~~
18 ~~appropriation is an appropriation made by permanent law that authorizes spending by a state agency~~
19 ~~without the need for a biennial legislative appropriation or budget amendment.~~

20 ~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply~~
21 ~~with both of the following provisions:~~

22 ~~(a) The law containing the statutory authority must be listed in subsection (3).~~

23 ~~(b) The law or portion of the law making a statutory appropriation must specifically state that a~~
24 ~~statutory appropriation is made as provided in this section.~~

25 ~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-106;~~
26 ~~2-18-812; 3-5-901; (section 2); 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111;~~
27 ~~15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;~~
28 ~~16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201;~~
29 ~~17-6-408; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;~~
30 ~~19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;~~

~~17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;~~
~~19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;~~
~~20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;~~
~~23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;~~
~~39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;~~
~~67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;~~
~~80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;~~
~~90-6-331; 90-7-220; 90-9-306; and 90-14-107.~~

~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,~~
~~paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued~~
~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of~~
~~Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as~~
~~determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the~~
~~bonds or notes have statutory appropriation authority for the payments. (In subsection (3), pursuant to sec.~~
~~7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for~~
~~supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates~~
~~July 1, 1995.)"~~

NEW SECTION. Section 4. Codification instruction. ~~(1)~~ (1) [Section 1] is intended to be codified
as an integral part of Title 3, and the provisions of Title 3 apply to [section 1].

~~(2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the~~
~~provisions of Title 3, chapter 5, part 9, apply to [section 2].~~

(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 3, CHAPTER
5, PART 9, AND THE PROVISIONS OF TITLE 3, CHAPTER 5, PART 9, APPLY TO [SECTION 2].

NEW SECTION. Section 5. Effective date -- TERMINATION DATE. (1) [This act] is effective July
1, 1995.

(2) [THIS ACT] TERMINATES JUNE 30, 1999.

-END-

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on March 6, 1995,
at 9:00 a.m.

ROLL CALL

Members Present:

Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 41, HB 176, HB 231, HB 547
Executive Action: HB 176, HB 231, HB 234, HB 41, SB 387

HEARING ON HB 176

Opening Statement by Sponsor:

REPRESENTATIVE TONI HAGENER, House District 90, Havre, presented HB 176. This bill is brought at the request of the Judicial Unification and Finance Commission which was created in the 1993 Legislative Session in response to concerns raised by the State Bar of Montana and the Montana Association of Counties that Montana's courts were running out of money. Thirty six of Montana's counties were experiencing district court funding problems. To address these issues, the district court funding committee recommended that the legislature initiate a thorough examination of court unification and finance. HB 525 passed in

the 93 Session and established the Judicial Unification and Finance Commission and provided it be a broad-based committee composed of 13 members representative of several different agencies. This bill is one of the recommendations coming out of that study. Addressing the problems of court funding shortfall and inability to update and modernize court equipment, the study commission suggested that legislation be enacted to require that all courts of original jurisdiction impose a user surcharge in criminal, civil and probate cases providing that the surcharge be used for state funding of court information technology and also providing a statutory appropriation and an effective date. The surcharge would amount to five dollars which would be forwarded to the State Treasurer and deposited in the account as established in Section 2 for state funding of court information technology. There is a fiscal note attached. There is a user fee applied to those using the service. In 1990, the Supreme Court ordered the Office of Court Administrator to provide automation for the 224 courts in Montana. These courts consist of the Supreme Court, the district courts, and courts of limited jurisdiction. Under the direction of the Court Administrator's Office, much has been accomplished but much more needs to be done. As of this date, 71 or 72 of the 224 courts or roughly 31% have been automated. The office has assisted in the installation of the technological products or provided support services to over 250 court related personnel at fifteen sites in nineteen judicial districts. The Judiciary has been allocated, on an average basis, only \$168,000 for the past several years. This sum is not adequate to manage a statewide automation program. Contemplated projects include computerized legal research, automation of district court records, statewide access to court records, automation of traffic citations, fine collections and others. Although progress has been made, there is no funding mechanism to continue. The proposed \$5 user fee would provide the necessary funding to allow the continued development of court automation. It is extremely important that our courts keep up with technological advances that will allow them to manage the ever increasing number of cases with ever increasing complexity that are filed on a daily basis. The ability to collect accurate and timely statewide statistics, provide access to legal research, provide databases to interface with other systems and enhance communication is essential to approving our state court system. Each journal costs approximately \$1200. They are easily defaced. It would take approximately eight journals to record two years' worth of records. A CD disc costs approximately \$15. It is possible to duplicate a disc so it could be stored off-site.

Proponents' Testimony:

REPRESENTATIVE JOE QUILICI, House District 36, Butte, spoke in support of HB 176. He has been a member of the Appropriations Subcommittee on general government. They have been looking at court automation. This bill was not funded in HB 2. They concur

in the method of funding used in HB 176. Users of the system would be the persons paying for it.

Pat Chenovick, Administrator for the Supreme Court, stated the corrections system and the justice system are becoming automated; however, the courts which are not automated are becoming a bottleneck to a fast and effective justice system. This bill will fund automation in all courts of Montana. He referred to two journals from the district court system which he brought to the hearing. The entries in these journals were made by hand. Storage of the journals is a problem. Busy courts use approximately six journals per year. Information has been lost in fires. People have used razor blades to remove information from the journals. The Department of Family Services will be fully automated at the cost of \$9 million over an 18 month period. This came from both federal and general funds. Workers' Compensation is about to finish an imaging project which has cost approximately \$5 million. Automation is expensive. This bill will provide that the users of the system will pay for the improvements and all of Montana will see the benefit of that improvement. Automation will give judges the tools to properly sentence and the offenders to be charged with the proper offense.

Gordon Morris, Director of the Association of Counties, spoke in support of HB 176.

Bob Gilbert, Montana Magistrates Association and the Montana Association of Clerks of District Court, stated that both associations are in strong support of this bill. Court automation is needed in the state of Montana. There is a sunset provision on the funding which is designed to get the program up and running. The funding source is a user fee.

Gary Spaeth, State Bar of Montana, stated their strong support of HB 176.

Nancy Sweeney, Clerk of District Court for Lewis and Clark County, stated that Lewis and Clark County was fortunate to have assisted with the Court Administrator's Office in developing a court automation program. They strongly support this bill.

Opponents' Testimony:

Jeff Koch, Collection Bureau Services, stated concern about this bill. This bill will cost his business up to \$13,000 a year. To a small business, that is very hard to absorb. If the money was spent on equipment which streamlined the court system, he would be in favor of it. The first area he would like clarified is "court information technology". He has heard testimony that the money would be spent on computers. Court information technology could be almost anything. He asked that before the surcharge be imposed, there needs to be clarification regarding what will be purchased. Another area of confusion is which courts would be

affected. "Original jurisdiction" could mean the district courts only. Section 3-5-302, MCA, is the only place he located "original jurisdiction". This states: "(1) Except as provided in subsection (6), the district court has original jurisdiction . . . (b) all civil and probate matters;". Also, "(2) The district court has concurrent original jurisdiction with the justice's court . . . (3) The district court has exclusive original jurisdiction in all civil actions. . ." This would imply to him that the surcharge would affect only the district court cases and not include justice court or city courts, **EXHIBIT 1**. Different judges he has spoken with have expressed the opinion that original jurisdiction would mean the court which a case is originally filed in. What is a surcharge? Subsection 3 of this bill states that the surcharge imposed by this section is not a fee or a fine and that it must be imposed in addition to other taxable court costs, fees or fines. Is this an allowable cost which would be one the winning party would be able to include in a judgment? He handed out **EXHIBIT 2**. The handout was 25-10-201, MCA, which is the definition of allowable costs. "25-10-201. Costs generally allowable. . . (4) the legal fees paid for filing and recording papers . . ." Subsection 3 states a surcharge imposed by this section is not a fee which would indicate it would not be an allowable cost and must be absorbed by the party. It goes on to state that it must be imposed in addition to other taxable court cost fees or fines. Subsection 9 states such other reasonable and necessary expenses as are taxable according to the course and practice of the court or by express provision of law. There needs to be clarification on whether that is an allowable cost. He questioned whether the users of the court should be paying for this system. This bill would have 3/4 of the users of the court paying for the system. In criminal cases, upon conviction the defendant pays, but not the state, city, or county. They are also users of the court. This bill is fashioned so the persons using the court on civil matters will be paying the bulk of the costs which the entire state will receive the benefit of and he finds this not to be a fair tax.

Informational Testimony:

Questions From Committee Members and Responses:

CHAIRMAN CRIPPEN asked **Mr. Chenovick** to respond to the question of original jurisdiction and allowable costs.

Mr. Chenovick stated the bill was drafted by the Judicial Unification and Funding Committee. The committee believed that original jurisdiction applied to any court where the case was first filed. The language for the fee was taken from the section which deals with the surcharge for county attorneys. They wanted to make sure the \$5 surcharge did not change where the case was filed.

CHAIRMAN CRIPPEN asked **Mr. Koch** if he agreed with the explanation.

Mr. Koch stated he understood the answer relating to jurisdiction; however, he didn't understand about allowable costs.

CHAIRMAN CRIPPEN stated the surcharge is not an allowable cost. It is a specific charge and there is no question as to the allowability of it. It will be charge under all circumstances. Allowable costs would refer to the party to whom costs are awarded.

Mr. Koch stated that Mr. Chenovick stated the \$5 would not be used as a cost which would cause a case to be filed in another court because of dollar limitations. A legal fee paid is an allowable cost for filing. The bill in Section 1, (3) states this cost is not a fee. He feels that it would be an allowable cost but the language is contradictory.

CHAIRMAN CRIPPEN asked who pays for filing fees?

Mr. Koch stated they would be paid by the person filing the case. Upon judgment, those fees can be entered into the judgment against the losing party.

CHAIRMAN CRIPPEN asked who would pay the surcharge?

Mr. Chenovick stated the language was taken from the county attorney surcharge. If that surcharge is included, this would also be an allowable cost.

SENATOR REINY JABS asked how long the 10 FTEs would be employed and if there would be a need for additional full time employees on this project?

REPRESENTATIVE HAGENER stated that the sunset clause would say that the ten FTEs would be reduced in number when the basic automation program was completed.

Mr. Chenovick stated the fiscal note stated 10 FTEs to install and train people on the judicial case management system. Under current budget, there are five individuals employed for the project. The bill is sunset after four years. He cannot say that the 10 FTEs will disappear at the end of four years. A certain amount of support will need to be given to courts at the level they are at in automation. Someone will have to do that either at the county or state level.

SENATOR LINDA NELSON stated that the fiscal note reflected 25% of the people cannot pay the surcharge. This seemed like a high number to her.

Mr. Chenovick commented they arrived at that number by asking district courts and courts of limited jurisdiction what percentage of individuals have their fees waived. These people

have a constitutional right to use the court. If they cannot afford to pay the fee, it can be waived by the judge.

SENATOR SUE BARTLETT, referring to the fiscal note, asked **Mr. Chenovick** if he currently had five FTEs on staff and this bill would be adding another five.

Mr. Chenovick stated that was correct. He has five staff members dedicated to installation, training and programming for computerization in the courts. They would add additional staff up to the 10 FTEs.

SENATOR BARTLETT asked the intent of the term "court information technology".

Mr. Chenovick stated the term "court information technology" is a term which has evolved over several years from data processing and computerization. The executive branch has a Information Technology Advisory Council. The term has evolved to include imaging technology and real time court reporting technology. Data processing may not be inclusive enough to include things which may come up in four years. Technology is developing which would not be classified as data processing.

SENATOR BARTLETT asked if the term could include microfilm.

Mr. Chenovick commented that as the technology of the program evolves and they have years of records stored on computers, they will move those records to microfilm or CDs so that access will go along with the computerization of the court.

SENATOR LORENTS GROSFIELD stated the bill as introduced is an earmarked account with statutory appropriation. He understands the earmarked account to make the case of a user fee. Why would it be necessary to have a statutory appropriation?

Mr. Chenovick commented the Judicial Unification and Funding Committee decided on the statutory appropriation. An earmark fund would do the same thing.

Closing by Sponsor:

REPRESENTATIVE HAGENER remarked that she appreciated any clarification which the bill might need. She stated that we are in the midst of the technological revolution. It is a rare business which absorbs costs. Costs are usually passed along to the client. The client would benefit for more rapid, efficient and concurrent service.

{Tape: 1; Side: B}

Vote: The motion CARRIED UNANIMOUSLY on oral vote.

EXECUTIVE ACTION ON HB 176

Motion: SENATOR GROSFIELD MOVED TO AMEND HB 176 BY STRIKING THE STATUTORY APPROPRIATION.

Discussion: SENATOR GROSFIELD commented that very few statutory appropriations are put in as sunsetted. He believed that statutory appropriations do not get reviewed very well. With the sunset clause, there is an intent on the part of the sponsor that the program will be reviewed carefully. SENATOR BECK is the vice chairman of the subcommittee which has dealt with this. Apparently all the money has been taken from this program because it was funded from the general fund. If the statutory appropriation is eliminated, but the earmarking is left in the bill, he felt that the subcommittee would reinstate the funding.

Vote: The motion CARRIED UNANIMOUSLY on oral vote.

Discussion: SENATOR HOLDEN, referring to page 1, line 26, stated that Mr. Koch had concerns about whether or not the surcharge would be called an allowable cost.

Motion: SENATOR HOLDEN MOVED TO FURTHER AMEND HB 176, ON PAGE 1, LINE 26, AFTER THE WORD "COURT" HE WOULD INSERT "THE SURCHARGE IS AN ALLOWABLE COST."

Discussion: SENATOR HALLIGAN commented if it is a user fee it should be paid by the individual using the system. They have never differentiated in the civil or criminal process before. He opposed the amendment in the sense of fairness. We are identifying a particular industry for favorable treatment.

CHAIRMAN CRIPPEN clarified if this amendment is adopted the fee will fall under the definition of allowable cost in §25-10-201, MCA, which states, "A party to whom costs are awarded in an action is entitled to include in his bill of costs his necessary disbursements, as follows:" The prevailing party is entitled to collect the fee from the losing cost.

SENATOR BARTLETT stated that this fee was modeled after the surcharge for county attorney salaries. She asked if that surcharge is a allowable cost.

SENATOR HALLIGAN stated that dealt with criminal costs and is paid up front. Allowable costs go more to civil cases. The surcharge for the county attorney salaries is paid by the client and is not passed on to anyone else.

SENATOR BARTLETT stated without the amendment the language of the bill is unclear and there could be a court decision that this in fact is an allowable cost whether the amendment is put in or not.

Vote: The motion FAILED on roll call vote.

Discussion: SENATOR HALLIGAN asked if the committee wished to clarify by amendment that this is excluded as a cost..

CHAIRMAN CRIPPEN stated there are no exclusions in the code about allowable costs. He didn't see a need to do so.

Motion/Vote: SENATOR HALLIGAN MOVED HB 176 BE CONCURRED IN AS AMENDED. The motion CARRIED on roll call vote with SENATORS BAER AND ESTRADA voting "NO".

EXECUTIVE ACTION ON HB 41

Discussion: REPRESENTATIVE SMITH explained the amendments. On page 3, line 28, following visitors insert "and the director of the Department of Corrections and Human Services." They want to retain the statute of the powers and duties of the mental disability board of visitors. In case they are not able to work at their full maximum, they want to make sure that that due process is retained for the consumer. On page 5, line 17, they had the same amendment following the word "visitors" insert "and the director of the Department of Corrections and Human Services". The next amendment would follow that sentence after the words "of the involuntary administration." insert "the director shall report to the governor on an annual basis".

SENATOR HALLIGAN stated that in the past when boards have been eliminated, they simply put a codification instruction in the actual bill which eliminated the board. It then came back to any bill which passed that had that reference in it and was simply eliminated. He questioned the cleanest way to deal with the board of visitors issue.

Valencia Lane commented that since she did not know what was going on in HB 2, she was confused about advising the committee. If they are only eliminating the funding, they do not want to take out references in substantive law. References in substantive law could not be taken out of HB 2. It would be best not to take out the references in this bill.

Motion: SENATOR HALLIGAN MOVED TO AMEND HB 41.

Discussion: SENATOR BARTLETT commented that this amendment would mean that even if the funding is restored for the board of visitors, there will need to be reports not only to the board of visitors but also to the Director of the Department of Corrections and Human Services and the director as well as the

DATE _____

3-6-1995

SEN:1995
wp.rollcall.man

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 3/6/95 BILL NO. HB 176 NUMBER 1

MOTION: Holden - Amendment

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN		✓
LARRY BAER	✓	
SUE BARTLETT		✓
AL BISHOP, VICE CHAIRMAN	✓	
STEVE DOHERTY		✓
SHARON ESTRADA	✓	
LORENTS GROSFIELD	✓	
MIKE HALLIGAN		✓
RIC HOLDEN	✓	
REINY JABS		✓
LINDA NELSON		✓

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 3/6/95 BILL NO. HB176 NUMBER 2
MOTION: Be Concurred On AA
Motion

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN	✓	
LARRY BAER		✓
SUE BARTLETT	✓	
AL BISHOP, VICE CHAIRMAN	✓	
STEVE DOHERTY	✓	
SHARON ESTRADA		✓
LORENTS GROSFIELD	✓	
MIKE HALLIGAN	✓	
RIC HOLDEN	✓	
REINY JABS	✓	
LINDA NELSON	✓	

HB176

DISTRICT COURTS

LEGISLATIVE JUDICIARY COMMITTEE
3-5-302

EXHIBIT NO. 1

DATE

3/6/95

Part 3

District Court Jurisdiction

HB176

Part Cross-References

District Court jurisdiction, Art. VII, sec. 4,
Mont. Const.

3-5-301. Kinds of jurisdiction. The jurisdiction of the district court is of two kinds:

- (1) original; and
- (2) appellate.

History: En. Sec. 40, C. Civ. Proc. 1895; re-en. Sec. 6274, Rev. C. 1907; re-en. Sec. 8828, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 75; re-en. Sec. 8828, R.C.M. 1935; R.C.M. 1947, 88317.

Cross-References

City Attorney to prosecute appeals,
11-301.

Appeals to District Courts, Rule 81(b),
M.R.Civ.P. (see Title 25, ch. 20); Rule 52(b),

M.R.App.P. (see Title 25, ch. 21); Title 25, ch. 33.

Appeal from Justice's or City Court,
25-33-301.

Appeal from Small Claims Court,
25-34-403, 25-35-803.

3-5-302. Original jurisdiction. (1) Except as provided in subsection (6), the district court has original jurisdiction in:

- (a) all criminal cases amounting to felony;
- (b) all civil and probate matters;
- (c) all cases at law and in equity;
- (d) all cases of misdemeanor not otherwise provided for; and
- (e) all such special actions and proceedings as are not otherwise provided for.

(2) The district court has concurrent original jurisdiction with the justice's court in the following criminal cases amounting to misdemeanor:

- (a) misdemeanors arising at the same time as and out of the same transaction as a felony or misdemeanor offense charged in district court;
- (b) misdemeanors resulting from the reduction of a felony or misdemeanor offense charged in the district court; and
- (c) misdemeanors resulting from a finding of a lesser included offense in a felony or misdemeanor case tried in district court.

(3) The district court has exclusive original jurisdiction in all civil actions that might result in a judgment against the state for the payment of money.

(4) The district court has the power of naturalization and of issuing papers therefor in all cases where it is authorized to do so by the laws of the United States.

(5) The district court and its judges have power to issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction, other original remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in their respective districts. Injunctions and writs of prohibition and habeas corpus may be issued and served on legal holidays and nonjudicial days.

(6) (a) Except as provided in subsection (6)(b), a contest of a ballot issue submitted by initiative or referendum may be brought prior to the election only if it is filed within 30 days after the date on which the issue was certified to the governor, as provided in 13-27-308, and only for the following causes:

Sec. 9790, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1026; re-en. Sec. 9790, R.C.M. 1935; R.C.M. 1947, 93-8605.

Cross-References

Multiple defendants jointly and severally liable, 27-1-703.

25-10-107. Costs when tender was made before commencement of action. When, in an action for the recovery of money only, the defendant alleges in his answer that before the commencement of the action he tendered to the plaintiff the full amount to which he was entitled and thereupon deposits in court for plaintiff the amount so tendered and the allegation be found to be true, the plaintiff cannot recover costs but must pay costs to the defendant.

History: En. Sec. 409, p. 127, Bannack Stat.; amd. Sec. 478, p. 229, L. 1867; re-en. Sec. 554, p. 148, Cod. Stat. 1871; re-en. Sec. 491, p. 170, L. 1877; re-en. Sec. 491, 1st Div. Rev. Stat. 1879; re-en. Sec. 504, 1st Div. Comp. Stat. 1887; re-en. Sec. 1858, C. Civ. Proc. 1895; re-en. Sec. 7161, Rev. C. 1907; re-en. Sec. 9794, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1030; re-en. Sec. 9794, R.C.M. 1935; R.C.M. 1947, 93-8609.

25-10-108. Imposing costs on party acting as representative. In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or person expressly authorized by statute, costs may be recovered as in an action by and against a person prosecuting or defending in his own right; but such costs must, by the judgment, be made chargeable only upon the estate, fund, or party represented unless the court directs the same to be paid by the plaintiff or defendant personally for mismanagement or bad faith in the action or defense.

History: En. Sec. 410, p. 127, Bannack Stat.; re-en. Sec. 479, p. 230, L. 1867; re-en. Sec. 555, p. 148, Cod. Stat. 1871; re-en. Sec. 492, p. 170, L. 1877; re-en. Sec. 492, 1st Div. Rev. Stat. 1879; re-en. Sec. 505, 1st Div. Comp. Stat. 1887; re-en. Sec. 1859, C. Civ. Proc. 1895; re-en. Sec. 7162, Rev. C. 1907; re-en. Sec. 9795, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1031; re-en. Sec. 9795, R.C.M. 1935; R.C.M. 1947, 93-8610.

Cross-References

Right to bring action or assert defenses, Title 27, ch. 1, part 5.

Powers, duties, and compensation of personal representatives, Title 72, ch. 3, part 6.

Personal representative, Title 72, ch. 3, part 6.

Part 2

Allowable Costs

25-10-201. Costs generally allowable. A party to whom costs are awarded in an action is entitled to include in his bill of costs his necessary disbursements, as follows:

- (1) the legal fees of witnesses, including mileage, or referees and other officers;
- (2) the expenses of taking depositions;
- (3) the legal fees for publication when publication is directed;
- (4) the legal fees paid for filing and recording papers and certified copies thereof necessarily used in the action or on the trial;
- (5) the legal fees paid stenographers for per diem or for copies;
- (6) the reasonable expenses of printing papers for a hearing when required by a rule of court;
- (7) the reasonable expenses of making transcript for the supreme court;

(8) the reasonable expenses for making a map or maps if required and necessary to be used on trial or hearing; and

(9) such other reasonable and necessary expenses as are taxable according to the course and practice of the court or by express provision of law.

History: En. Sec. 1866, C. Civ. Proc. 1895; re-en. Sec. 7169, Rev. C. 1907; re-en. Sec. 9802, R.C.M. 1921; re-en. Sec. 9802, R.C.M. 1935; R.C.M. 1947, 93-8618.

Cross-References

Salary and expenses of court reporters, 3-5-602.	Costs as sanctions for failure to make discovery, Rule 37, M.R.Civ.P. (see Title 25, ch. 20).
Copies of proceedings, 3-5-604.	Costs for interpreters, Rule 43(f), M.R.Civ.P. (see Title 25, ch. 20).
Cost of jury, 3-15-203, 3-15-205.	Compensation of masters, Rule 53(a), M.R.Civ.P. (see Title 25, ch. 20).
Fees of Clerk of District Court, 25-1-201.	Costs of affidavits made in bad faith, Rule 56(g), M.R.Civ.P. (see Title 25, ch. 20).
Fee of court reporter, 25-1-202.	Offer of judgment, Rule 68, M.R.Civ.P. (see Title 25, ch. 20).
Alternative methods of service, Title 25, ch. 3, part 5.	Witness fees, Title 26, ch. 2, part 5.
Attorneys' fees, Title 25, ch. 10, part 3.	
Service by publication, Rule 4D(5), M.R.Civ.P. (see Title 25, ch. 20).	
Expenses for failure to attend deposition, Rule 30(g), M.R.Civ.P. (see Title 25, ch. 20).	

25-10-202. Costs of motion. Whenever a motion is sustained or overruled, the losing party must pay to the other \$10 as costs. If a motion is withdrawn before the hearing, it must be considered overruled.

History: En. Sec. 1861, C. Civ. Proc. 1895; re-en. Sec. 7164, Rev. C. 1907; re-en. Sec. 9797, R.C.M. 1921; re-en. Sec. 9797, R.C.M. 1935; R.C.M. 1947, 93-8612; amd. Sec. 99, Ch. 575, L. 1981.

25-10-203. Costs of postponement. When an application is made to the court or referee to postpone a trial, the payment of costs occasioned by the postponement may be imposed, in the discretion of the court or referee, as a condition of granting the same.

History: En. Sec. 408, p. 127, Bailewick Stat.; re-en. Sec. 477, p. 229, L. 1867; re-en. Sec. 553, p. 148, Cod. Stat. 1871; re-en. Sec. 499, p. 170, L. 1877; re-en. Sec. 490, 1st Div. Rev. Stat. 1879; re-en. Sec. 503, 1st Div. Comp. Stat. 1887; re-en. Sec. 1857, C. Civ. Proc. 1895; re-en. Sec. 7160, Rev. C. 1907; re-en. Sec. 9793, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 1029; re-en. Sec. 9793, R.C.M. 1935; R.C.M. 1947, 93-8608.

Cross-References

Motion to postpone trial, Title 25, ch. 4, part 5.

25-10-204. Costs of transferring papers — change of venue. The costs and fees of transmitting the pleading and papers when an order is made transferring an action or proceeding for trial and of filing the papers anew must be paid by the party at whose instance the order was made; except that the party filing the complaint must pay all costs and fees of filing the papers anew and all costs and fees, including reasonable attorneys' fees to be fixed by the court, incurred by the defendant by reason of the change of venue motion and hearing when:

(1) the action is an action upon a contract, express or implied, for the direct payment of money and the claim contained in the complaint exceeds \$1,000;

(2) the county designated in the complaint is not the proper county; and

DATE 3-6-95

SENATE COMMITTEE ON Jud.

BILLS BEING HEARD TODAY: HB 41 - HB 231
HB 176 HB 547

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Bob Gilbert	Mr. MAGISTRATES Mr. ASST. CLERK & D. Court	HB 231 HB 176	X	

VISITOR REGISTER

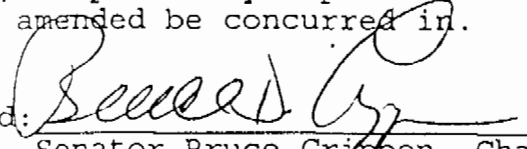
PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 6, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 176 (third reading copy -- blue), respectfully report that HB 176 be amended as follows and as so amended be concurred in.

Signed: 

Senator Bruce Crippen, Chair

That such amendments read:

1. Title, lines 9 and 10.

Following: "~~MCA,~~" on line 9

Strike: remainder of line 9 through "MCA;" on line 10

2. Page 2, line 2.

Strike: "-- STATUTORY APPROPRIATION"

3. Page 2, lines 5 and 6.

Strike: subsection (3) in its entirety

4. Page 2, line 8 through page 3, line 7.

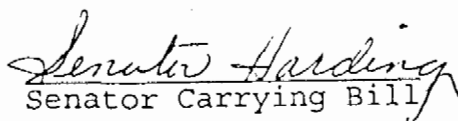
Strike: section 3 in its entirety

Renumber: subsequent sections

-END-



Amd. Coord.
Sec. of Senate


Senator Carrying Bill

521514SC.SRF

HOUSE BILL NO. 176

INTRODUCED BY HAGENER, COBB, FISHER, CHRISTIAENS, HARDING, QUILICI, GRADY, BECK
BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL COURTS OF ORIGINAL JURISDICTION TO IMPOSE A USER SURCHARGE IN CRIMINAL, CIVIL, AND PROBATE CASES; PROVIDING THAT THE SURCHARGE ~~MUST BE DEPOSITED IN THE STATE GENERAL FUND AND IS INTENDED TO BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTION 17-7-502, MCA;~~ AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. User surcharge for court information technology -- exception. (1)

Except as provided in subsection (2), all courts of original jurisdiction shall impose:

(a) on a defendant in criminal cases, a \$5 user surcharge upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail;

(b) on the initiating party in civil and probate cases, a \$5 user surcharge at the commencement of each action, proceeding, or filing; and

(c) on each defendant or respondent in civil cases, a \$5 user surcharge upon appearance.

(2) If a court determines that a defendant in a criminal case or DETERMINES PURSUANT TO 25-10-404 THAT a party in a civil case is unable to pay the surcharge, the court may waive payment of the surcharge imposed by this section.

(3) The surcharge imposed by this section is not a fee or fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the state treasurer and deposited in the ~~account established in [section 2]~~ STATE GENERAL FUND AND IS INTENDED TO BE APPROPRIATED AND USED ACCOUNT ESTABLISHED IN [SECTION 2] for state funding of court information technology.

1 NEW SECTION. SECTION 2. ACCOUNT ESTABLISHED FOR COURT INFORMATION TECHNOLOGY

2 — STATUTORY APPROPRIATION. (1) THERE IS AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND
3 FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.

4 (2) MONEY COLLECTED PURSUANT TO [SECTION 1] MUST BE DEPOSITED IN THIS ACCOUNT.

5 (3) MONEY IN THIS ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502,
6 TO THE SUPREME COURT TO BE USED FOR STATE FUNDING OF COURT INFORMATION TECHNOLOGY.

7
8 SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:

9 "17-7-502. Statutory appropriations — definition — requisites for validity. (1) A statutory
10 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
11 without the need for a biennial legislative appropriation or budget amendment.

12 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
13 with both of the following provisions:

14 (a) The law containing the statutory authority must be listed in subsection (3).

15 (b) The law or portion of the law making a statutory appropriation must specifically state that a
16 statutory appropriation is made as provided in this section.

17 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-106;
18 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111;
19 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;
20 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201;
21 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;
22 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;
23 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
24 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;
25 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;
26 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;
27 80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;
28 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

29 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
30 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued

~~pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"~~

~~**NEW SECTION. Section 2. Account established for court information technology—statutory appropriation.** (1) There is an account in the state special revenue fund for state funding of court information technology.~~

~~(2) Money collected pursuant to [section 1] must be deposited in this account.~~

~~(3) Money in this account is statutorily appropriated, as provided in 17-7-502, to the supreme court to be used for state funding of court information technology.~~

~~**Section 3. Section 17-7-502, MCA, is amended to read:**~~

~~**"17-7-502. Statutory appropriations—definition—requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.~~

~~(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:~~

~~(a) The law containing the statutory authority must be listed in subsection (3).~~

~~(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.~~

~~(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; [section 2]; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201; 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;~~

~~20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;
39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;
67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;
80-4-416; 80-11-310; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;
90-6-331; 90-7-220; 90-9-306; and 90-14-107.~~

~~(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
July 1, 1995.)"~~

NEW SECTION. Section 3. Codification instruction. ~~(1)~~ (1) [Section 1] is intended to be codified
as an integral part of Title 3, and the provisions of Title 3 apply to [section 1].

~~(2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 5, part 9, and the
provisions of Title 3, chapter 5, part 9, apply to [section 2].~~

**(2) [SECTION 2] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 3, CHAPTER
5, PART 9, AND THE PROVISIONS OF TITLE 3, CHAPTER 5, PART 9, APPLY TO [SECTION 2].**

NEW SECTION. Section 4. Effective date -- TERMINATION DATE. (1) [This act] is effective July
1, 1995.

(2) [THIS ACT] TERMINATES JUNE 30, 1999.

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